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# NAVAL POSTGRADUATE SCHOOL

MONTEREY, CALIFORNIA

## THESIS

**BALANCE OF RISK IN THE SOUTH CHINA SEA**

by

Adam M. McCann

June 2015

Thesis Advisor:  
Second Reader:

Erik Dahl  
Christopher Twomey

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**BALANCE OF RISK IN THE SOUTH CHINA SEA**

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Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES  
(FAR EAST, SOUTHEAST ASIA, AND THE PACIFIC)**

from the

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## ABSTRACT

Chinese military and diplomatic actions in the South China Sea (SCS) are often seen as risky and provocative to other nations in the region that could lead to wider conflict. International relations scholars and China specialists debate the significance and causes of Chinese behavior in the SCS and the relationship of this peripheral territory to China's place in the international system.

This thesis attempts to contribute to the debate by evaluating whether Chinese behavior in the SCS may be explained by the balance-of-risk theory developed by Jeffrey W. Taliaferro in *Balancing Risks: Great Power Intervention in the Periphery*. This theory utilizes defensive realism and prospect theory to explain decisions by leaders to engage in risky military and diplomatic actions in peripheral region. In *Balancing Risks*, which was published in 2004, Taliaferro argues leaders refuse to accept losses to their relative power and will continue to pursue risk acceptant strategies in order to maintain a perceived or real status quo. The questions asked by this thesis are: does Chinese behavior follow the balance-of-risk hypotheses? If so, what are the implications of balance-of-risk theory for our understanding of Chinese actions in the SCS? And, what does the balance-of-risk tell us about policy response during crisis?



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## LIST OF ACRONYMS AND ABBREVIATIONS

AMS	Academy of Military Science
ARF	ASEAN Regional Forum
ASEAN	Association of South East Asian Nations
BASIC	Brazil, South Africa, India, and China
CC	Central Committee
CLCS	Commission on the Limits of the Continental Shelf
COC	Code of Conduct
COLREGS	International Regulations for Preventing Collisions at Sea
CMC	Central Military Commission
CMS	China Maritime Surveillance
CNOOC	China National Offshore Oil Corporation
CPC	Communist Party of China
DBOA	Department of Boundary and Ocean Affairs
DOC	Declaration on the Conduct of Parties in the SCS
EEZ	exclusive economic zone
FFRDC	Federally Funded Research and Development Center
FLEC	Fisheries Law Enforcement Command
GDP	gross domestic product
HD-981	Chinese oil rig Haiyang Shiyou 981
ICJ	International Court of Justice
KIG	Kalayaan Island Group
LCAC	air-cushioned landing craft
LSG	Leading Small Group
MFA	Ministry of Foreign Affairs
MOA	Ministry of Agriculture
MPS	Ministry of Public Security
MSA	Maritime Safety Administration
MSF	Maritime Surveillance Force
MV	motor vessel
NM	nautical miles

PLA	People's Liberation Army
PLAN	People's Liberation Army Navy
PRC	People's Republic of China
PSC	Politburo Standing Committee
ROC	Republic of China
SCS	South China Sea
SOA	State Oceanic Administration
SSRFAB	South Sea Regional Fisheries Administration Bureau
TPP	Trans Pacific Partnership
UN	United Nations
UNCLOS	United Nations Convention on Law of the Sea
USSR	United Soviet Socialist Republic
VCP	Vietnam Communist Party

## **ACKNOWLEDGMENTS**

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# **I. INTRODUCTION**

## **A. RESEARCH QUESTION**

Chinese military and diplomatic actions in the South China Sea (SCS) are often seen as risky and dangerous, and threaten to provoke responses from the other nations of the region that could lead to wider conflict. International relations scholars and China specialists debate the significance and causes of Chinese behavior in the SCS, and relationship of this peripheral territory to China's place in the international system. This thesis attempts to contribute to the debate by evaluating if Chinese behavior and focus on the SCS may be explained by the balance-of-risk theory developed by Jeffrey W. Taliaferro. This theory utilizes defensive realism and prospect theory to explain decisions by leaders to engage in risky military and diplomatic actions in peripheral regions that pose no direct threat. Taliaferro argues leaders refuse to accept losses to their relative power, and will continue to pursue risk acceptant strategies in order to maintain a perceived or real status quo. The questions asked by this thesis are: does Chinese behavior follow the balance-of-risk hypotheses? If so, what are the implications of balance-of-risk theory for our understanding of Chinese actions in the SCS? And, what does the balance-of-risk tell us about policy response during crisis?

## **B. BACKGROUND**

In May 2014, Chinese oil rig Haiyang Shiyu 981 (HD-981), with approximately 80 supporting naval and surveillance ships, began an exploration mission in contested waters of the SCS.<sup>1</sup> HD-981's deployment caused clashes at sea, the sinking of a Vietnamese fishing vessel, and anti-Chinese protests in Vietnam that resulted in the burning of Chinese factories; it also brought international attention back to the

---

<sup>1</sup> Carl Thayer, "4 Reasons China Removed Oil Rig HYSY-981 Sooner than Planned," *The Diplomat*, July 22, 2014, <http://thediplomat.com/2014/07/4-reasons-china-removed-oil-rig-hysy-981-sooner-than-planned/>.

territoriality disputes throughout the SCS.<sup>2</sup> The SCS features a history of militarized conflict based on maritime security and expressed in the form of territorial disputes over the maritime rights to exclusive economic zones (EEZs) and continental shelves. Disputes manifest around competition over fishery and energy resources, the freedom of navigation, sea lines of communication, and naval modernization.<sup>3</sup> The SCS has traditionally been an important seaway; the Council on Foreign Relations reports that sea lanes provide the avenue for 5.3 trillion dollars of trade annually—1.2 trillion of which is United States (U.S.) trade—and the International Energy Agency projects 90 percent of Middle Eastern fossil fuels will enter Asia via these sea-lanes by 2035.<sup>4</sup> While undersea oil and natural gas estimates vary, the U.S. Energy Information Administration projects reserves of over 11 billion barrels of crude oil and 190 trillion cubic feet of natural gas exist throughout the entire SCS.<sup>5</sup> Access to fisheries also been framed by disputants as a “human front line” that represents economic value, an avenue for governments to legitimize territorial claims, and a mobilizer of nationalism.<sup>6</sup> Philippine fisheries’ exports to China reached 129 million dollars in 2013; but from 1995 to 2014, 42 Chinese vessels and 640 Chinese fishermen were held by the Philippine’s province of Palawan for poaching.<sup>7</sup> Incidents involving the arrest of fishermen in disputed waters are often a

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<sup>2</sup> Trefor Moss, “TV Shows China Ship Ramming Another Vietnamese Vessel Near Oil Rig,” *Wall Street Journal*, June 3, 2014, <http://www.wsj.com/articles/vietnam-tv-shows-chinese-vessel-ramming-another-ship-near-oil-rig-1401811550>; Jack Simpson, “Footage Released of Large Chinese Ship Chasing and Sinking Small Vietnamese Fishing Boat in Disputed Waters,” *The Independent*, June 6, 2014, <http://www.independent.co.uk/news/world/asia/footage-released-of-large-chinese-ship-chasing-and-sinking-small-vietnamese-fishing-boat-in-disputed-waters-9501386.html>; Euan McKirdy, “Protestors Torch Factories in Southern Vietnam as China Protests Escalate,” *CNN*, May 15, 2014, <http://www.cnn.com/2014/05/14/world/asia/south-china-sea-drilling-duplicate-2/index.html>.

<sup>3</sup> M. Taylor Fravel, “Maritime Security in the South China Sea and the Competition Over Maritime Rights,” in *Cooperation From Strength: The United States, China and the South China Sea*, eds. Patrick Cronin and William Rogers (Washington, DC: Center for New American Security, 2012), 34–36.

<sup>4</sup> “China’s Maritime Disputes,” Council on Foreign Relations, 2013, [http://www.cfr.org/asia-and-pacific/chinas-maritime-disputes/p31345#](http://www.cfr.org/asia-and-pacific/chinas-maritime-disputes/p31345#/)!.

<sup>5</sup> Ibid.; “Contested Areas of South China Sea Likely Have Few Conventional Oil and Gas Resources,” U.S. Energy Information Administration, April 3, 2013, <http://www.eia.gov/todayinenergy/detail.cfm?id=10651>.

<sup>6</sup> Michael Fabinyi, “China and the South China Sea Resource Grab,” *The Diplomat*, February 22, 2015, <http://thediplomat.com/2015/02/china-and-the-south-china-sea-resource-grab/>.

<sup>7</sup> Ibid.; Elizabeth C. Economy, “China’s Imperial President,” *Foreign Affairs* 93, no. 6 (November/December 2014), <https://www.foreignaffairs.com/articles/china/2014-10-20/chinas-imperial-president>.

catalyst for another underlying issue facing regional disputes: nationalism.<sup>8</sup> Chinese President Xi Jinping used this sentiment to enact regional fishing regulations in 2013, which claims Hainan Province controls over 2,000,000 square kilometers of the SCS.<sup>9</sup> Beginning in 2006, regional tensions increased leading up to the 2009 deadline to the United Nations (UN) Commission on the Limits of the Continental Shelf (CLCS) whose goal was to delineate maritime boundaries; however, tensions have not advanced to militarization and typically involve diplomatic crises surrounding territorial claims and incidents associated their resources.<sup>10</sup>

Historically, the SCS is a peripheral region with a waxing and waning geopolitical importance; but it has always played a prominent role in Chinese foreign relations, and recent Chinese behavior has reignited territorial disputes and reopened the debate as it the regions importance to China, the Southeast Asian states, and the international community. To understand the background of the disputes in the SCS, it is important to address the underlying causes. This chapter will breakdown the current status of the claims in the SCS, explore the history of claims, disputes, and conflicts in the SCS, and identify the role of Chinese nationalism in perpetuating disputes.

## **1. The Status of the South China Sea**

The SCS can be broken down to include the Scarborough Shoal and four groups of features— islands, shoals, reefs, banks, sands, cays, and rocks: the Pratas Islands (*Dongsha qundao* in Chinese), the Paracel Islands (*Xisha qundao* in Chinese and *Hoang Sa* in Vietnamese), the Spratly Islands (*Nansha qundao* in Chinese and *Truong Sa* in

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<sup>8</sup> M. Taylor Fravel, “Territorial and Maritime Boundary Disputes in Asia,” in Saadia Pekkanen, Rosemary Foot, and John Ravenhill, *The Oxford Handbook of the International Relations of Asia* (Oxford: Oxford University Press, 2014), 3.

<sup>9</sup> Economy, “China’s Imperial President.”; Carl Thayer, “China’s New Fishing Regulations: An Act of State Piracy?” *The Diplomat*, January 13, 2014, <http://thediplomat.com/2014/01/chinas-new-fishing-regulations-an-act-of-state-piracy/>; Taylor Fravel, “Hainan’s New Fishing Rules: A Preliminary Analysis,” *The Diplomat*, January 10, 2014, <http://thediplomat.com/2014/01/hainans-new-fishing-rules-a-preliminary-analysis/>.

<sup>10</sup> Fravel, “Maritime Security,” 36.

Vietnamese), and the Macclesfield Bank (*Zhongsha qundao* in Chinese).<sup>11</sup> The current statuses of the Scarborough Shoal and four major groups are presented in Figure 1.

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<sup>11</sup> Tilman Pradt, "Smoldering Conflicts in the South China Sea," *ASIEN: The German Journal on Contemporary Asia*, no. 121 (October 2011), 59, [http://asien.asienforschung.de/wp-content/uploads/sites/6/2014/04/ASIEN\\_121\\_AA\\_Pradt.pdf](http://asien.asienforschung.de/wp-content/uploads/sites/6/2014/04/ASIEN_121_AA_Pradt.pdf).



Figure 1. Map depicting SCS claims and nine-dashed line (2014)<sup>12</sup>

<sup>12</sup> Michael McDevitt, *The South China Sea: Assessing U.S. Policy and Options for the Future* (CNA Occasional Paper) (Arlington, VA: Center for Naval Analysis, November 4, 2014), ii, <https://www.cna.org/research/2014/south-china-sea>.

**a. *Scarborough Shoal***

The Scarborough Shoal is the largest atoll in the SCS and reef and rocks features form a largely submerged triangle-shaped chain.<sup>13</sup> Both the Philippines and China claim the atoll, and control has shifted between the two states. At this time, China effectively controls the Scarborough Shoal by maintaining a presence of naval or coast guard vessels.<sup>14</sup>

**b. *The Pratas Islands***

The Pratas Islands are under the control of Taiwan. China maintains the only other claim on the Pratas Islands.<sup>15</sup>

**c. *The Paracel Islands***

The Paracel Island archipelago is under the control of China. The People's Republic of China (PRC) gained control of the eastern Amphitrite Group from the Republic of China (ROC) during the Chinese civil war, but the other Spratly Island features were under Vietnamese control. China achieved sole control over the western islands after defeating the Vietnamese in the 1974 Battle of the Paracel Islands. Vietnam and Taiwan dispute China's claim of the Paracel Islands.<sup>16</sup>

**d. *The Spratly Islands***

The Spratly Islands include 230 features and are occupied by five states and are claimed in whole or in part by six states: China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. China, Vietnam, and Taiwan maintain sovereignty claims over the entirety of the Spratly Island features, the Philippines claims 53 features, Malaysia claims

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<sup>13</sup> Mark E. Rosen, *Philippine Claims in the South China Sea: A Legal Analysis* (CNA Occasional Paper) (Arlington, VA: Center for Naval Analysis, August 2014), 7, <https://www.cna.org/sites/default/files/research/IOP-2014-U-008435.pdf>.

<sup>14</sup> Ibid., 8.

<sup>15</sup> Pradt, "Smoldering Conflicts," 63.

<sup>16</sup> Ibid., 63–64; M. Taylor Fravel, "Growing Competition in the South China Sea," in *The Long Littoral Project: South China Sea*, eds. Michael A. McDevitt, Taylor Fravel, and Lewis M. Stern (Arlington, VA: Center for Naval Analysis, March 2013), 38, <http://taylorfravel.com/documents/research/fravel.2013.CNA.competition.SCS.pdf>.

12 features, and Brunei claims territorial seas and an EEZ which reaches the waters in the Spratly Islands.<sup>17</sup> Taiwan was the first claimant, and it occupied the largest island, Taiping Island, since 1956.<sup>18</sup> China first established control over a Spratly Island territory during the 1988 Johnson South Reef Skirmish with Vietnam, and it quickly established military outposts on Subi Reef, Fiery Cross Reef, Mischief Reef, Johnson South Reef, and Chigua Reef.<sup>19</sup> Malaysia first established a position in the Spratly Islands in 1983 at Swallow Reef, and it occupies six islets including structures on Investigator Shoal and Erica Reef.<sup>20</sup> The Philippines first took control of five islands after Tomas Cloma and his followers occupied some islets off of the Philippine archipelago in 1974.<sup>21</sup> The Philippines claims a collection of 53 features known as the Kalayaan Island Group (KIG).<sup>22</sup> In 1995, China moved in on Philippine claimed Mischief Reef and occupied the feature.<sup>23</sup> In the 1990s, the Philippines grounded the *Sierra Madre* on the Second Thomas Shoal, and it maintains its claim by stationing forces on the wreck.<sup>24</sup> Vietnam first took control of six Spratly Islands in the 1970s, and has increased its possessions to 27.<sup>25</sup> These possessions include Spratly Island, which holds facilities including a 600 meter runway, and Southwest Cay, an island that Vietnamese troops seized in 1975 while the Philippine garrison was visiting Northeast Cay.<sup>26</sup>

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<sup>17</sup> Fravel, "Growing Competition," 39.

<sup>18</sup> Ibid., 39.

<sup>19</sup> Ibid.; Pradt, "Smoldering Conflicts," 64–65.

<sup>20</sup> Pradt, "Smoldering Conflicts," 65.

<sup>21</sup> Ibid.

<sup>22</sup> Rosen, *Philippine Claims*, 18–19.

<sup>23</sup> Pradt, "Smoldering Conflicts," 65.

<sup>24</sup> Thomas Etzler, "Wrecks, Rats, and Roaches: Standoff in the South China Sea," *CNN*, July 2014, <http://www.cnn.com/interactive/2014/07/world/south-china-sea-dispute/>.

<sup>25</sup> Pradt, "Smoldering Conflicts," 65.

<sup>26</sup> Ibid.; Manuel Mogato and Nguyen Phuong Linh, "Philippine, Vietnamese Troops Drink Beer, Play Volleyball on Disputed Isle," *Reuters*, June 8, 2014, <http://www.reuters.com/article/2014/06/08/us-philippines-vietnam-idUSKBN0EJ06820140608>.



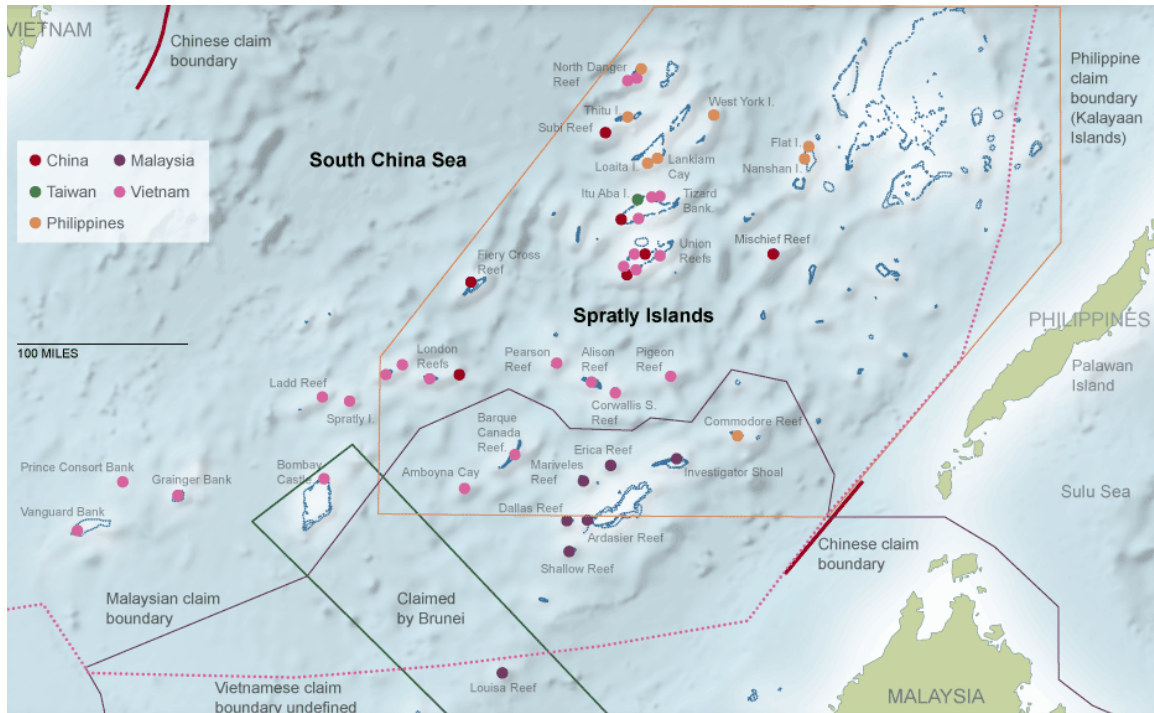


Figure 2. Map depicting occupied Spratly Islands features (2012)<sup>27</sup>

**e. Macclesfield Bank**

The Macclesfield Bank is a completely submerged chain of reefs. The area is claimed by the Philippines, Taiwan, and China.<sup>28</sup>

**2. A Historical Perspective of South China Sea Claims**

Modern claims to the SCS date back to April 23, 1930 when France announced the annexation of the Spratly Islands.<sup>29</sup> After France took physical possession of the Spratly Islands on April 7, 1933, the Republic of China protested French claims, the ROC

<sup>27</sup> “Territorial Claims in South China Sea,” image, *New York Times*, May 31, 2012, [http://www.nytimes.com/interactive/2012/05/31/world/asia/Territorial-Claims-in-South-China-Sea.html?\\_r=0](http://www.nytimes.com/interactive/2012/05/31/world/asia/Territorial-Claims-in-South-China-Sea.html?_r=0).

<sup>28</sup> Ronald O’Rourke, *Maritime Territorial and Exclusive Economic Zone (EEZ) Disputes Involving China: Issues for Congress* (CRS Report No. R42784) (Washington, DC: Congressional Research Service, April 22, 2015), 2, <https://www.fas.org/sgp/crs/row/R42784.pdf>.

<sup>29</sup> Leszek Buszynski, “The Development of the South China Sea Maritime Dispute,” in *The South China Sea and Australia’s Regional Security Environment* (National Security College Occasional Paper No. 5), eds. Leszek Buszynski and Christopher Roberts (Acton, Australia: National Security College, Australian National University, September 2013), 5, <http://nsc.anu.edu.au/documents/occasional-5-brief-1.pdf>.

Land and Water Maps Inspection Committee formed in 1933.<sup>30</sup> The committee's mission was to survey, name, and produce maps depicting all of the islands under Chinese sovereignty in the SCS, and the U-shaped line map was drawn in 1935.<sup>31</sup>

In December 1939, Japanese naval forces claimed and occupied the Pratas, Paracel, and Spratly Islands basing submarines on Itu Aba Island.<sup>32</sup> After the defeat of the Japanese during World War II, the San Francisco Conference was convened to determine the sovereignty of territory conquered by Japan. Article 2(f) declared, "Japan renounces the right, title, and claim to the Spratly Islands and to the Paracel Islands;" but competing sovereignty claims by the excluded PRC Foreign Minister Zhou Enlai on August 15, 1951 and Vietnamese envoy Tran Van Huu on September 7, 1951 resulted in the conference leaving the area "*res nullius*" (nobody's property).<sup>33</sup> This left the Pratas, Paracel, and Spratly Islands without definite sovereignty, and created the conditions that led to the modern territorial disputes.

Each of the claimants in the SCS bases their claims on different factors. The Vietnamese base their claims on inherited sovereignty from France, which was granted at the decolonization enforced by the Geneva Conference of 1954.<sup>34</sup> The Philippines draw their claims from Tomas Cloma's settlement in the Spratly Islands that he called *Kalayaan* (Freedom Land), and the Philippines expressed this claim on July 10, 1971 with a subsequent presidential decree on June 11, 1978 renaming the group Kalayaan Island Group.<sup>35</sup> The Malaysian claim was a reaction to Marco's presidential decree and occupation of KIG, which it considered a part of its own claim.<sup>36</sup> The Malaysian claim

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<sup>30</sup> Buszynski, "South China Sea Maritime Dispute," 6; Erik Franckx and Marco Benatar, "Dots and Lines in the South China Sea: Insights from the Law of Map Evidence," *Asian Journal of International Law* 2, no. 1 (January 2012), 90–91, doi: 10.1017/S2044251311000117.

<sup>31</sup> Franckx and Benatar, "Dots and Lines," 90.

<sup>32</sup> Buszynski, "South China Sea Maritime Dispute," 6.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

was proclaimed by a map published in 1979.<sup>37</sup> Brunei's claim is limited to an EEZ that overlaps with Malaysia's.<sup>38</sup>

China bases its claim off of the Zhou Enlai's objection to the San Francisco Conference and the official ROC U-shaped line map. Zhou's declaration was the PRC's first claim, "the Xisha Islands and Nanwei Dao [Spratly Islands] are inherently Chinese territory, just like the whole of the Nansha Islands, Zhongsha Islands and Dongsha Islands. They fell during the war of aggression waged by Japanese imperialists, but were fully recovered by the then Chinese Government upon Japan's surrender."<sup>39</sup> The U-shaped map, based on the earlier draft findings of the Land and Water Maps Inspection Committee, was produced in 1947 by the ROC's Department of the Territories and Boundaries of the Ministry of the Interior and made up the second portion of the Chinese claim.<sup>40</sup> The U-shaped line map originally contained eleven dashes and encompassed the better part of the SCS with its mid-sea features starting at the Sino-Vietnamese boarder, passing through the Gulf of Tonkin, separating Vietnam from the Paracel and Spratly Islands, passing the James Shoal to the South, then moving northeast separating Borneo and The Philippines from the Spratly Islands, and finally separating The Philippines from the Chinese mainland and Taiwan.<sup>41</sup> Figure 3 depicts the original U-shaped line as created by the ROC' Department of the Territories and Boundaries of the Ministry of the Interior entitled: "Map of the South China Sea Islands."<sup>42</sup>

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<sup>37</sup> Buszynski, "South China Sea Maritime Dispute," 6.

<sup>38</sup> Ibid.

<sup>39</sup> Zhiguo Gao and Bing Bing Jia, "The Nine-Dash Line in the South China Sea: History, Status, and Implications," *American Journal of International Law* 107, no. 1 (January 2013), <http://www.lexisnexis.com.libproxy.nps.edu/hottopics/lnacademic/?verb=sr&csi=7416&sr=TITLE%28The+Nine-Dash+Line+in+the+South+China+Sea%3A+History%2C+Status%2C+and+Implications%29%2BAND%2BDATE%2BIS%2B2013>.

<sup>40</sup> Franckx and Benatar, "Dots and Lines," 90–91.

<sup>41</sup> Ibid., 91.

<sup>42</sup> Ibid.

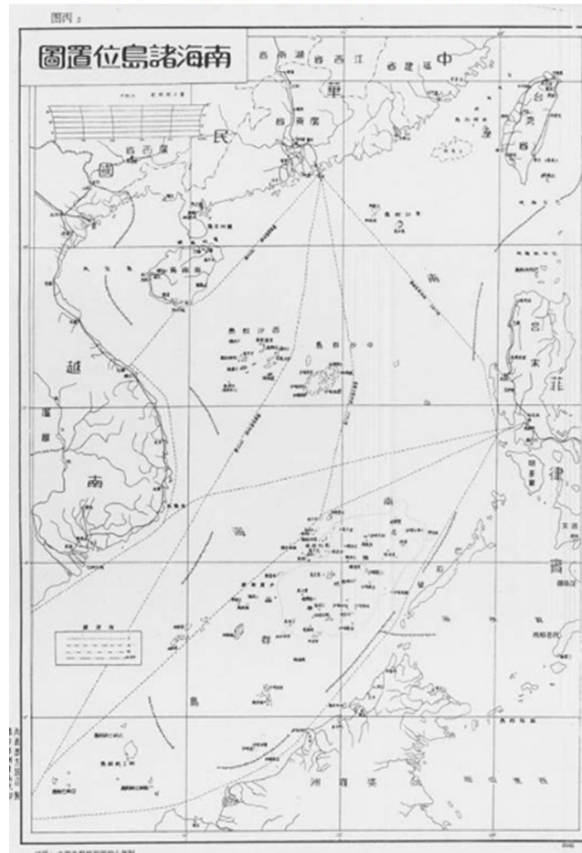


Figure 3. Map of the South China Sea Islands (1947)<sup>43</sup>

After the PRC took control of the government of mainland China in 1949, the PRC adopted a similar position to that of the ROC. In 1953 a map of the South China Sea that featured nine dashes—the dashes in the Gulf of Tonkin were removed as a concession to Vietnam—was used to depict PRC claims in the SCS.<sup>44</sup>

After suggesting that some of the Nansha Islands “should” belong to the Philippines in 1956, the PRC issued a statement that repeated the proclamation by Zhou Enlai from August 15, 1951. The PRC followed the repeated statement with the Declaration on the Territorial Sea on September 4, 1958, and this declaration is one of the

<sup>43</sup> “Map of South China Sea Islands,” map, 1947, U.S. Department of State (DOS), Bureau of Oceans and International Environmental and Scientific Affairs, *Limits In The Seas No. 143, China: Maritime Claims in the South China Sea* (Washington, DC: Office of Ocean and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, December, 5, 2014), 2, <http://www.state.gov/documents/organization/234936.pdf>.

<sup>44</sup> Franckx and Benatar, “Dots and Lines,” 91; Buszynski, “South China Sea Maritime Dispute,” 6.

foundations of China's modern maritime claims.<sup>45</sup> The 1958 Declaration on China's Territorial Sea, adopted at the 100<sup>th</sup> Meeting of the Standing Committee of the National People's Congress, provides one of the clearest delineation of the Chinese claim:

1. The breadth of the territorial sea of the People's Republic of China shall be twelve nautical miles. This provision applies to all territories of the People's Republic of China including the Chinese mainland and its coastal islands, as well as Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha Islands and all other islands belonging to China which are separated from the mainland and its coastal islands by the high seas.
2. China's territorial sea along the mainland and its coastal islands takes as its baseline the line composed of the straight lines connecting bas-points on the mainland coast and on the outermost coastal islands; the water area extending twelve nautical miles outward from this baseline is China's territorial sea. The water areas inside the baseline, including Bohai Bay and the Chiungchow Straits, are Chinese inland waters. The islands inside the baseline, including Tungyin Island, Kaoteng Island, the Matsu Islands, the Paichuan Islands, Wuchiu Island, the Greater and Lesser Quemoy Islands, Tatan Island, Erhtan Island and Tungting Island, are islands of the Chinese inland waters.
3. No foreign aircraft and no foreign vessels for military use may enter China's territorial sea and the air space above it without the permission of the Government of the People's Republic of China.
4. While navigation Chinese territorial sea, every foreign vessel must observe the relevant laws of the People's Republic of China and regulations of its government.
5. The principles provided in paragraphs (2) and (3) apply also to Taiwan and its surrounding islands, the Penghu Islands, the Dongsha Islands, the Xisha Islands, the Zhongsha Islands, the Nansha islands, and all other islands belonging to China.
6. The Taiwan and Penghu areas are still occupied by the United States armed force. This is an unlawful encroachment on the territorial integrity and sovereignty of the People's Republic of China. Taiwan, Penghu and such other areas are yet to be recovered, and the Government of the People's Republic of China has the right to recover these areas by all

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<sup>45</sup> Buszynski, "South China Sea Maritime Dispute," 6.

suitable means at a suitable time. This is China's internal affair, in which no foreign interference is tolerated.<sup>46</sup>

The 1958 Declaration became the basis of the 1992 Law on the Territorial Sea and the Contiguous Zone that added the Senkaku Islands to China's claim, the 1996 Declaration on the Baselines of the Territorial Sea that delineated geographic points from the tip of the Shandong peninsula along the mainland coast to the western cape of Hainan island as well as around the Paracels, and the 1998 Law on the Exclusive Economic Zone and the Continental Shelf.<sup>47</sup> Combining the 1992, 1996, and 1998 laws provides the basis for China's claims in the SCS until 2009.

### **3. The Role of Nationalism in South China Sea Disputes**

The SCS disputes were nationalized as part of the early 1990s Communist Party of China (CPC) propaganda campaign called *guaqing jiaoyu* (education in the national condition), which became the foundation for modern Chinese state sponsored nationalism.<sup>48</sup> *Guaqing jiaoyu* contained three overriding themes: Chinese historic traditions, the territorial integrity of the state, and national unity, and it forms the backbone to state nationalism which Zhao argued "stresses political-territorial convergence" with the expressed desire to "maintain the boundaries of the existing nation-state with its territory and population."<sup>49</sup> While Zhao believed there were two other forms of nationalism in china, liberal and ethnic, state nationalism forms the basis for foreign policy and it has taken on a pragmatic nature that is largely "a situational matter and essentially contextual, whose content is continually reconstructed to fit the needs of its creators and consumers."<sup>50</sup> Zhao argued that modern Chinese leaders

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<sup>46</sup> People's Republic of China, "Resolution of the Standing Committee of the National People's Congress of the Approval of the Declaration of the Government on China's Territorial Sea," Asian Legal Information Institute, September 4, 1958, <http://www.asianlii.org/cn/legis/cen/laws/rotscotnpcotaotdotgocts1338/>.

<sup>47</sup> Daniel J. Dzurek, "The People's Republic of China Straight Baseline Claim," *IBRU Boundary and Security Bulletin* 4, no. 2 (Summer 1996), 77, <https://www.dur.ac.uk/ibru/publications/download/?id=92>.

<sup>48</sup> Suisheng Zhao, *A Nation-State by Construction: Dynamics of Modern Chinese Nationalism* (Stanford, CA: Stanford University Press, 2004), 9.

<sup>49</sup> *Ibid.*, 12, 20.

<sup>50</sup> *Ibid.*, 20, 29.

maintain this pragmatism except in cases that “involve China’s vital interest or trigger historical sensitivities.”<sup>51</sup> This characterization of Chinese nationalism fits within M. Taylor Fravel’s findings on Chinese concessions in territorial disputes, discussed in the next chapter, which noted Chinese sovereignty over the SCS is complicated by the dual claim of Taiwan.<sup>52</sup> The Taiwanese claim nationalizes disputes because any resolution including concessions would threaten the legitimacy of the CPC’s claim to ruling China.<sup>53</sup>

The history of China and its interactions with the West’s Westphalian nation-state system also affected the disputes in the SCS. The clash of Chinese universalism with Western imperialism caused a cultural crisis in China, and the Chinese nation-state was forced to borrow the ideas of nationalism to help its transformation into the international system.<sup>54</sup> Zhou argued the systemic factors of globalization, the nation-state, and imperialism “conditioned, if not dictated, the various nationalist roles” available for the Chinese elites and the emphasis on territorial sovereignty created a mythology that was embodied by the Chinese nation-state.<sup>55</sup> Territory became a symbol of the mythic “century of humiliation,” and the CPC was able to build on this to link state survival to the Chinese people as a nation through the survival of the Party.<sup>56</sup> These linkages have placed a significant importance on territorial integrity in the SCS, and as discussed in the next section, China has only made one territorial maritime concession.

The link of maritime territorial integrity and nationalism has recently displayed itself in a new ways. One of the recent expressions of nationalism in the SCS appears innocuous was adding a watermark map of China that includes the nine-dashed line to its eighth page; however, this act illustrates regional sensitivities to Chinese nationalism as

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<sup>51</sup> Zhao, *Nation-State by Construction*, 32.

<sup>52</sup> M. Taylor Fravel, *Strong Borders, Secure Nation: Cooperation and Conflicts in China’s Territorial Disputes* (Princeton, NJ: Princeton University Press, 2008), 268.

<sup>53</sup> Ibid.

<sup>54</sup> Zhao, *Nation-State by Construction*, 47.

<sup>55</sup> Ibid., 49–50.

<sup>56</sup> For a detailed discussion of the role of history, the “century of humiliation,” and the CPC see: John W. Garver, “The Legacy of the Past,” in *Foreign Relations of the People’s Republic of China* (Englewood Cliffs, NJ: Prentice-Hall, 1993); Zhao, *Nation-State by Construction*, 76–77.

Vietnamese border officials refused to stamp the page, the Philippines and Taiwan presented formal complaints, and India stamps its own version of the map on that page of Chinese visitors.<sup>57</sup> Robert Ross presents a more problematic manifestation of Chinese nationalism: the aircraft carrier. Ross argued that the pursuit and construction of an aircraft carrier was the result of “prestige strategies” based on naval nationalism.<sup>58</sup> In his argument, Ross points to Chinese nationalism claiming widespread demand for the construction of aircraft carriers and a blue water navy because they are traditional symbols of great power status.<sup>59</sup> Embarrassed by the inability to respond to the 2004 Indonesian tsunami, Ross argued proponents of the air craft carrier program use two arguments to justify their beliefs: “explicit demand for status,” and a “pseudo national interest argument,” which both cited the need to secure sea lanes and respond to crisis.<sup>60</sup> Regardless of justification, the building of an aircraft carrier is a shift in the hard military power relationship that could undermine the peaceful rise of China. The passport and aircraft carrier program are just two examples of how Chinese nationalism can affect the disputes in the SCS.

### C. CONCLUSION

The background to disputes in the SCS is based on the San Francisco Conference’s inability to resolve territorial claims, but it is complicated by nationalism, geopolitics, and a militarized history. The growing tensions from these factors and the assertive behavior of China caused U.S. Secretary of State Hillary Clinton to declare “the future of geopolitics will be decided in Asia” as she announced the American pivot to the Pacific.<sup>61</sup>

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<sup>57</sup> Max Fisher, “Here’s the Chinese Passport Map that’s Infuriating Much of Asia,” *Washington Post*, November 26, 2012, <http://www.washingtonpost.com/blogs/worldviews/wp/2012/11/26/heres-the-chinese-passport-map-thats-infuriating-much-of-asia/>.

<sup>58</sup> Robert S. Ross, “China’s Naval Nationalism: Sources, Prospects, and the U.S. Response,” *International Security* 34, no. 2 (Fall 2009), 50, [http://muse.jhu.edu/journals/international\\_security/v034/34.2.ross.pdf](http://muse.jhu.edu/journals/international_security/v034/34.2.ross.pdf).

<sup>59</sup> *Ibid.*, 60.

<sup>60</sup> *Ibid.*, 65–66.

<sup>61</sup> Hillary Clinton, “America’s Pacific Century,” *Foreign Policy* 189, no. 1 (2011), <http://search.proquest.com.libproxy.nps.edu/docview/900933128?accountid=12702>.



In a move that looks like “forward deployed diplomacy,” the U.S. recognized the significance of the economic, geo-political, and territorial relationships in the SCS and made it imperative that scholars and policy makers understand the behavior of the region’s major player—China.<sup>62</sup> This thesis evaluates if the balance-of-risk hypothesis helps further the academic debate and if it helps policy makers understand Chinese behavior in the SCS. Balance-of-risk theory applies defensive realism to prospect theory to evaluate decisions by Chinese leaders. If the theory is substantiated, the findings should help scholars and policy makers understand Chinese military and diplomatic strategies in the SCS.

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<sup>62</sup> Clinton, “America’s Pacific Century.”

## II. SURVEY OF INTERNATIONAL RELATIONS THEORIES

In surveying the literature that addresses the behavior of China in international relations, two major questions appear: is China rise in power peacefully, and is China assertive? As each international relations theory emphasizes different factors and their interpretation, answers from realists, economic interdependence theorists, neorealists, British School theorists, or analytic game theorists do not provide a consensus opinion. Theorists who value international institutions do not tend to view China as overly assertive and maintain the possibility of a peaceful rise, while realism based theorists tend to view China as assertive and unable rise peacefully. These overarching theories are important because their implications drive policy decisions; however, each view point differs on what drives China's behavior, so an examination of the competing theories helps contextualize where the balance-of-risk theory fits into the bigger picture. This chapter will survey the literature to present a range of potential answers to its basic research question: what explains Chinese behavior in the SCS?

### A. DEFINITIONS

It is useful to begin with this section by defining the relevant terms and what they mean for China. According to Barry Buzan, a rising power is defined as a state that sees the growth of its power in absolute and relative terms in respect to the other participants of the international system.<sup>63</sup> The peaceful rise of China includes the growth of power without precipitating any major hostilities between China, its neighbors, or other world powers. A non-peaceful rise includes conflicts between China, its neighbors, or another world power as a dominant feature of the growth in power. With respect to the international order, China can be viewed as revisionist, detached, or status quo. Revisionist states can be further broken down by whether a state desires to change its status in the international system, or whether a state desires to reform the structure and institutions that form the international system.<sup>64</sup> Detached states do not participate in the

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<sup>63</sup> Barry Buzan, "China in International Society: Is 'Peaceful Rise' Possible?" *Chinese Journal of International Politics* 3, no. 1 (2010), 16–17, doi: 10.1093/cjip/pop014.

<sup>64</sup> Ibid.

international system and as an active participant in the global and regional institutions that make up the international system, such as the UN, World Bank, Association of South East Asian Nations Regional Forum (ARF) or the Asian-Pacific Economic Cooperation; China is not a detached state.<sup>65</sup> A status quo state can be defined as a state that accepts both its place in the international system and the structure of the system itself.<sup>66</sup>

Michael Swaine argues that assertive behavior is ambiguous term and problematic to define because it “means different things to different people.”<sup>67</sup> An increased and active Chinese role in international institutions, deliberate efforts at revising international norms, or challenges to national interests or policies of the U.S. in forms ranging from verbal statements to official actions have all been used to prove assertive Chinese behavior.<sup>68</sup> Swaine argues that the broad range of actions should be limited to behavior that distinguishes official or governmental sanctioned words and actions that are confrontational, destabilizing, or threatening, and the threshold should be high enough to exclude unofficial actions or “utterances.”<sup>69</sup> Swaine terms Chinese behavior that is productive or creative forms of assertiveness as “positive activism,” and should not be viewed as assertive because of its negative connotations.<sup>70</sup> Fravel adds depth to the definition with the argument that assertiveness requires “new and unilateral actions to change the status quo.”<sup>71</sup> This thesis will adopt Swaine and Fravel’s threshold in defining assertive behavior as officially sanctioned new and unilateral actions, policies, or statements that are confrontational, destabilizing, or threatening.

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<sup>65</sup> Buzan, “China in International Society,” 16–17; “The World Factbook: China,” Central Intelligence Agency, last modified May 15, 2015, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>.

<sup>66</sup> Buzan, “China in International Society,” 16–17.

<sup>67</sup> Michael D. Swaine, “Perceptions of an Assertive China,” *China Leadership Monitor*, no. 32 (2011), 1–2, <http://www.hoover.org/sites/default/files/uploads/documents/CLM34MS.pdf>.

<sup>68</sup> Swaine, “Perceptions of an Assertive China,” 2.

<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Fravel, “Maritime Security,” 41.

## **B. PERSPECTIVES ON A RISING CHINA**

The international relations literature on the rise of China provides arguments for a peaceful rise, a conflict based rise, and even that China has not yet started its rise. This section will review arguments from economic interdependence theory, the British School theory, game theory, and neorealist theory perspectives. These perspectives each present alternative ways to understand Chinese behavior.

### **1. A Case for a Peaceful Rise**

Richard Rosecrance argues that the current economic, political, and military relationships formed by the globalization of world markets will usher in a peaceful rise of China. Rosecrance believes the catalyst will be the growth of the domestic market formed by a Chinese middle class that will number around 400 million in the near future.<sup>72</sup> Following the American example, China will participate in zones of economic competency and will need the products and markets of other states regardless of the size, strength, or capabilities of its military.<sup>73</sup> Rosecrance's view is based on the shift of economic growth away from land and capital, and towards human capital a segment of the world economy that now accounts for 64 percent of world gross domestic product.<sup>74</sup> Additionally, the markets of China's neighbors in Japan, the Koreas, India, and Russia all make any external territorial expansion unlikely because it would upset the development via economic growth approach in favor of a development via military expansion.

Buzan argues that the peaceful rise of China is a two-way process in which China accepts and participates in the structures and institutions of the international system, and other world powers accommodate China by adjusting the structures and institutions to the new status of powers.<sup>75</sup> Buzan's view expresses the English School theory and its principal idea of the international society.<sup>76</sup> In the English School, primary institutions

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<sup>72</sup> Richard Rosecrance, "Power and International Relations: The Rise of China and Its Effects," *International Studies Perspectives* 7, no. 1 (February 2006), 35, doi: 10.1111/j.1528-3577.2006.00227.x.

<sup>73</sup> Ibid., 34.

<sup>74</sup> Ibid., 33.

<sup>75</sup> Buzan, "China in International Society," 5.

<sup>76</sup> Ibid., 6.

(international) and players (states) both evolve and define behavior that is acceptable, and contestation over primary institutions is one of the forces behind the international society.<sup>77</sup> In this view, a peaceful rise of China is accomplished by both China and the international society working together to create the conditions necessary to avoid conflict.<sup>78</sup> With this in mind, China was only ready to enter into engagement with the international society on a non-revolution basis in the 1980s, and it has transformed its interests from a political-territorial zero sum struggle to a status quo power that accepts the international society on an ideological level.<sup>79</sup> Buzan views China as a “good citizen” at the regional level sharing traditional Westphalian views on sovereignty, non-intervention, regime security, the preservation of culture, and a commitment to development through trade and investment.<sup>80</sup> Globally, Buzan recognizes that China is not yet considered to be a “good citizen,” yet his major conclusion is that a peaceful rise is possible. The conditions of this rise is a revisionist China that reforms the international system by constructing a regional society based on “Asian Values” that embraces a pluralist Westphalian view, a liberal market based economic system that favors mutual development and interdependence, and repairs relationships with potential spoilers in Japan, Taiwan, and South Korea.<sup>81</sup>

Samuel Wu and Bruce Bueno de Mesquita addressed the dispute in the SCS from a game theory perspective, and argue that China’s rise will not include a return to militarization. Their findings were based on rational actor model where states consist of competing interests that try to shape policy that achieve a compromise between enhanced security and specific policy or ideological goals.<sup>82</sup> While the research noted an increase in Chinese power and the buildup of Chinese military capabilities, it argued that the

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<sup>77</sup> Buzan, “China in International Society,” 5.

<sup>78</sup> Ibid., 7.

<sup>79</sup> Ibid., 13–14.

<sup>80</sup> Ibid., 14.

<sup>81</sup> Ibid., 29, 31, 34, 35.

<sup>82</sup> Samuel S. G. Wu and Bruce Bueno de Mesquita, “Assessing the Dispute in the South China Sea: A Model of China’s Security Decision Making,” *International Studies Quarterly* 38, no. 3 (September 1994), 380, doi: 10.2307/2600738.

PRC's main policy objective of economic reform and development remains the top priority. The conclusion of Wu and Mesquita, drawn from Mesquita's proprietary model, was that China is "not prepared to risk such a level of military engagement [military engagement to solve territoriality disputes in the South China Sea] at this time."<sup>83</sup> Wu and Mesquita expressed confidence in this model based on the robust results from a wide variety of stakeholders and their power, preferences, and salience.<sup>84</sup> While this game theory perspective is dated, originally published in 1994 and it does not account for the changing geopolitical position of China, China has not deviated from its policy of economic reform and development. Despite maintaining consistent policies for growth and development, China's geopolitical changes have affected its foreign policy and the model should be updated to account for those changes.

## **2. A Case for the Rise Causing Conflict**

John Mearsheimer presents the neorealist argument and argued "to put it bluntly: China cannot rise peacefully."<sup>85</sup> Mearsheimer rejects many of the arguments that attempt to determine if China is a status quo power or a revisionist state, rather he focuses on the uncertainty of intentions and the inability of rival powers to determine the objectives of the Chinese military. Chinese military actions, building a blue water navy, projecting power to the second island chain, and the far sea defense strategy, are perceived as actions that indicate "Beijing is bent on aggression."<sup>86</sup> Citing World War I as an example, Mearsheimer also rejects interdependence as having a significant effect on geopolitics. His focus is on a rising China that will try to dominate the Asia-Pacific region as a hegemon; because for neorealists like Mearsheimer, hegemony provides the "ideal situation" for any state and it is likely the only way that China can maintain "core interests," such as reintegrating Taiwan into the Chinese state.<sup>87</sup> In the neorealist view,

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<sup>83</sup> Wu and de Mesquita, "Assessing the Dispute," 398.

<sup>84</sup> Ibid., 399.

<sup>85</sup> John J. Mearsheimer, "The Gathering Storm: China's Challenge to U.S. Power in Asia," *Chinese Journal of International Politics* 3, no. 4 (2010), 382, doi: 10.1093/cjip/poq016.

<sup>86</sup> Ibid., 384.

<sup>87</sup> Ibid., 389.

U.S. is likely to attempt to contain China like it behaved towards the Soviet Union during the Cold War, and the resulting potential security competition between China and the U.S. has a “considerable potential for war.”<sup>88</sup>

### **3. A Case Arguing China Is Not Yet Rising**

Sheena Chestnut and A. Iain Johnston counter the consensus opinion that China is actually rising. Chestnut and Johnston define the rising power of a state as its changes compare to the capability of the hegemon, and in the case of China, the U.S. is the hegemon in question.<sup>89</sup> In order to measure the change in relative power between China and the US, Chestnut and Johnston examined “capabilities as a percentage of the dominant state’s, and the absolute difference between the dominant state’s capabilities and those of weaker challengers.”<sup>90</sup> For China to be considered rising, its capabilities must be increasing as a percentage of the U.S. and the absolute gap between China and the U.S. must be getting smaller.<sup>91</sup> Chestnut and Johnston did not find that China had reached the point where both percentage and absolute differences indicate that China is rising in relation to the US.<sup>92</sup> For gross domestic product (GDP), military spending, and science, technology, and information integration all show percentage gains; however, the U.S. actually expanded its absolute advantages in each of these categories.<sup>93</sup> Interestingly, the implications of the perception of a rising China from Chestnut and Johnston’s findings appear to have little effect on the overall discourse of Chinese foreign policy.

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<sup>88</sup> Mearsheimer, “Gathering Storm,” 389–90.

<sup>89</sup> Sheena Chestnut and Alastair Iain Johnston, “Is China Rising?” in *Global Giant: Is China Changing the Rules of the Game?* eds. Eva Paus, Penelope B. Prime, and Jon Western (New York: Palgrave Macmillan, 2009), 242.

<sup>90</sup> *Ibid.*, 242.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*, 244.

<sup>93</sup> *Ibid.*, 244–46.

#### 4. Applying the Broader Theories to Chinese Behavior in SCS

Just as there are debates over the larger questions interpreting the behavior of a rising China, international relations literature on Chinese foreign policy in the SCS debates the assertiveness of Chinese behavior. Scholars argue that assertive Chinese behavior is meant to upset the status quo, while behavior that maintains the status quo is used as evidence against any new assertiveness. This section will review arguments on whether Chinese behavior in the SCS is assertive or not.

##### a. *A Case Arguing Chinese Assertiveness in the South China Sea*

Michael Yahuda's argument that China is newly assertive in the SCS is based on four developments: a shift in the balance of power in China's favor, the inclusion of the SCS and its trade routes as a national interest, the growth of the People's Liberation Army Navy's (PLAN's) power to exercise China's claims, and the increased nationalists sentiment amongst both the public and officials from the PRC.<sup>94</sup> Yahuda pointed to the China's 11<sup>th</sup> Ambassadorial Conference in 2009, the Party's Central Work Conference on Foreign Affairs, which adjusted Deng Xiaoping's famous maxim, "keep a low profile and achieve something" (*taoguang yanghui, yousuo zuowei*) to "uphold (*jianchi*) keeping a low profile and actively (*jiji*) achieve something" signaling the shift towards a more assertive diplomatic policy.<sup>95</sup> In this context, using naval assets in the 2009 *USNS Impeccable* incident to exercise the Chinese held view of limiting surveillance in their EEZ is a reflection of their growing power and the weakening power of the U.S. in the wake of the global financial crisis.

Carlyle Thayer presented the most compelling argument of actions that meet the threshold for assertiveness. He argued that China displayed assertive behavior through a "pattern of aggressively asserting sovereignty claims" by "targeting the commercial

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<sup>94</sup> Michael Yahuda, "China's New Assertiveness in the South China Sea," *Journal of Contemporary China* 22, no. 81 (2013), 446, doi: 10.1080/10670564.2012.748964.

<sup>95</sup> Ibid., 447; M. Taylor Fravel, "Revising Deng's Foreign Policy," *The Diplomat*, January 17, 2012, <http://thediplomat.com/2012/01/revising-dengs-foreign-policy-2/>.



operations of oil exploration ships” in areas disputed by Vietnam and the Philippines.<sup>96</sup> Thayer cited 2011 incidents with Chinese patrol boats and the Motor Vessel (MV) Veritas Voyager, a survey ship operating in Reed Bank off of the Philippine’s Palawan Island, the Binh Minh 02, a survey ship operating off of Vietnam’s central coast, and the Viking II, a seismic survey ship operating around Vanguard Bank.<sup>97</sup> In each of these occasions Chinese vessels maneuvered dangerously close to the vessels, and in the case of the Binh Minh 02 and Viking II they attempted to cut the ships surveying cables.<sup>98</sup> Thayer also called the decision in 2011 to expand Hainan’s annual unilateral fishing ban to three months in length and include international fishermen as well as the 2013 expansion from the Paracels to the entire SCS assertive behavior, which was backed up with South Sea Regional Fisheries Administration Bureau (SSRFAB) patrols that threatened and detained Vietnamese fishermen.<sup>99</sup>

***b. A case Arguing China Is not Assertive in the South China Sea***

Swaine and Fravel took up the argument that it is not clear that China has displayed assertive behavior in the form of significant negative unilateral policies or actions in the SCS.<sup>100</sup> As mentioned earlier, Fravel points to the consistency of Chinese maritime and sovereignty claims and the continued demilitarization of the disputes as the major argument against assertive behavior. Swaine and Fravel contend that the increase in the capabilities and patrols of its Coast Guard, SSRFAB, and Maritime Surveillance Force (MSF) are only a response to the way other states have challenged China’s claims.<sup>101</sup> They also referenced earlier U.S. and PLAN interactions, *USNS Bowditch* and

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<sup>96</sup> Carlyle A. Thayer, “Chinese Assertiveness in the South China Sea and Southeast Asian Responses,” *Journal of Current Southeast Asian Affairs* 30, no. 2 (2011), 77, <http://journals.sub.uni-hamburg.de/giga/jsaa/article/view/446>.

<sup>97</sup> Ibid., 79, 86.

<sup>98</sup> Ibid., 86.

<sup>99</sup> Ibid., 85; Thayer, “China’s New Fishing Regulations.”

<sup>100</sup> Swaine, “Maritime Security,” 41.

<sup>101</sup> Ibid.

the EP-3 incidents, as evidence that China has signaled the desire that the U.S. and other nations do not conduct surveillance in their claimed waters.<sup>102</sup>

Fravel argued that instances that stand out as Chinese assertiveness in the SCS are limited. Fravel cited the Viking II cable cutting incident as a unilateral and harmful action that stands out as newly assertive. Additionally, he argued that the best indicator of an increase in Chinese assertiveness would be a shift from civilian agencies to PLAN naval forces in confrontations with civilians from a disputant state. While the scholarly literature does not form a consensus on Chinese assertiveness in the SCS, Fravel and Swaine provide a benchmark from which to test incidents and behavior.

### C. CONCLUSION

While the literature on Chinese behavior is broad in both scope and depth, this thesis will investigate one particular area of Chinese behavior—actions in the SCS. The recent rise in tensions over the territorial disputes in the SCS present an opportunity to test the balance-of-risk theory and determine if Chinese foreign policy has followed a similar path as other Western powers. The international relations literature provides a variety of different Western perspectives on Chinese behavior, but in the SCS views of behavior appear to follow the paradigm of assertiveness in realist based theories versus cooperation in institutional based theories. Within this context, the rise of China is threatening or beneficial depending on your viewpoint, and disputes in the SCS are the driving force behind competition or cooperation. This thesis uses balance-of-risk theory to explain Chinese behavior, and determine if the rise of China is a threat of conflict or an opportunity for cooperation.

If balance-of-risk theory can explain Chinese behavior in the SCS, then it may help further the argument that Chinese behavior does fit within the scope of Western international relations theory. This development could be extrapolated to understand

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<sup>102</sup> For a detailed list of assertive behavior that Swaine and Fravel argued is consistent with prior Chinese behavior see: Michael D. Swaine and M. Taylor Fravel, “China’s Assertive Behavior—Part Two: The Maritime Periphery,” *China Leadership Monitor*, no. 35 (2011), <http://carnegieendowment.org/files/CLM35MS.pdf>; For a detailed list of behavior Fravel argued challenged Chinese claims see table one: Fravel, “Maritime Security.”

other Chinese behavior outside of the SCS. Observations, such as Fravel who observed Chinese leaders avoid visiting disputed territory in the SCS and use civilian agencies to exercise sovereignty to limit any escalation or militarization of the disputes, could be used by international relations scholars to understand Chinese behavior, and in Fravel's case it would mean leaders signal their intentions through the actions by the level of leadership or agencies that respond to crisis.<sup>103</sup>

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<sup>103</sup> Fravel, "Maritime Security," 41.

### **III. BALANCE-OF-RISK THEORY**

#### **A. INTRODUCTION**

In testing the balance-of-risk theory on the case of Chinese behavior in the SCS, this thesis will adapt the four hypotheses that Taliaferro set forth in *Balancing Risks: Explaining Great Power Involvement in the Periphery*. If the hypotheses are confirmed, this thesis should be able to prove Chinese behavior followed a predicted set of patterns. In order to establish the patterns of Chinese behavior and evaluate the balance-of-risk hypotheses, this paper will review the balance-of-risk theory's components of defensive realism and prospect theory, identify the balance-of-risk theory's variables, present evidence of a change in Chinese after 2006 that proves or disproves each of the four balance-of-risk hypotheses, and draw conclusions regarding China's behavior in the SCS.

#### **B. BALANCE-OF-RISK THEORY**

Balance-of-risk theory is made up of two components: prospect theory and defensive realism. Prospect theory is not a theory of foreign relations, rather it is a behavioral model for decision making under risk. Daniel Kahneman and Amos Tversky developed the theory in 1979 in response to observations that people continually violated the tenants of expected utility theory. Kahneman and Tversky theorized people make decisions not based not on the rational model of expected utility theory, but around a reference point that frames their choice as a gain or loss. Their theory posits that individuals evaluate decisions based on an expectation level, will overvalue losses relative to comparable gains (loss aversion), and will value what they have more than comparable things which they do not have (endowment effect). So, individuals will be risk averse in choices amongst gains, but risk acceptant in choices among losses. In stable situations, the status quo often serves as the reference point from which individuals make their decision, but other influences—expectation levels, aspirations, social norms, or recent losses—can affect the reference point. In dynamic situations, individuals will renormalize their position after making a gain, but will maintain the old status quo as a reference point after taking a loss (instant endowment effect). In this situation,

individuals will engage in risk-acceptant behavior to return to the previous reference point. Additionally, if an individual frames a decision around the current status quo, they will view any costs of moving away from the status quo as a loss and the benefits as a gain, overvalue the loss, undervalue the gain, and therefore they typically remain at the status quo (status quo bias).<sup>104</sup>

However, because prospect theory is a behavior model, a broader model of international relations must accompany it in order to provide explanations for political behavior. Balance-of-risk theory assumes the basic beliefs of defensive realists such as Charles Glaser, John Herz, and Stephen Van Evera. It accepts the following basic tenets: that states are the central actors, that the world is anarchic, that states seek to maximize their security or power, and that the international system is mostly responsible for state conduct in the international arena. Defensive realism argues that the international system provides incentives for moderate or restrained behavior, that security is potentially available for all states in the system because most states will accept the status quo (status-quo bias), that the security dilemma is based on inadvertent behavior based on status quo powers' inability to recognize their situation with a potential security partner state, that aggressor states are uncommon but hard to distinguish from potential security partners, and that incentives for state expansion only exist under particular circumstances.<sup>105</sup> Balance-of-risk theory diverges from defensive realism at two key points. First, it places an emphasis on the role of leaders and the complexity of foreign policy making, and like Hans Morgenthau and Arnold Wolfers argue, it assumes an indirect linkage between

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<sup>104</sup> For discussions on Prospect Theory in Political Science see: Jonathan Mercer, "Prospect Theory and Political Science," *Annual Review of Political Science* 8 (June 2005): 1–21, doi: 10.1146/annurev.polisci.8.082103.104911; Jack S. Levy, "Applications of Prospect Theory to Political Science," *Synthese* 135, no. 2 (May 2003): 215–41, <http://www.jstor.org/stable/20117364>; Jeffery W. Taliaferro, "Power Politics and the Balance of Risk: Hypotheses on Great Power Intervention in the Periphery," *Political Psychology* 25, no. 2 (April 2004): 177–211, doi: 10.1111/j.1467-9221.2004.00368.x.

<sup>105</sup> For a discussion on Defensive Realism See: Jeffery W. Taliaferro, "Security Seeking under Anarchy: Defensive Realism Revisited," *International Security* 25, no. 3 (Winter 2000–2001), 128–29, doi: 10.1162/016228800560543; Robert Jervis, "Realism, Neoliberalism, and Cooperation: Understanding the Debate," *International Security* 24, no. 1 (Summer 1999), 49–50, doi: 10.1162/016228899560040; Benjamin Frankel, "Restating the Realist Case: An Introduction," *Security Studies* 5, no. 3 (1996), xiv–xvii, doi: 10.1080/09636419608429274.

power or interests and actual policy.<sup>106</sup> The second divergence, the recognition that human beings have a limited capacity to process information, explains the indirect linkage of power or interests and actual policy. As humans have a limited mental capacity, Taliaferro argues that they will rely on “cognitive short cuts” to assess situations and select policies, and certain psychological tendencies bias their decisions, such as those described by prospect theory: loss aversion, endowment effect, instant endowment effect, etc.<sup>107</sup>

The usefulness of combining prospect theory and defensive realism is found in their complementary nature. The defensive realist literature has yet to fully explain the status-quo bias of states, and Taliaferro introduces prospect theory as a decision making model that helps to explain the presence of the status-quo bias.<sup>108</sup> Levy discussed the status quo bias as the common observation: states are often willing to fight to defend lands that they would not have been willing to capture in the first place.<sup>109</sup> In this example, balance-of-risk theory is able to use its divergence from defensive realism’s rational actor model to explain how foreign policy decisions are developed and implemented that do not fit within traditional defensive realism.

The most difficult aspect of applying balance-of-risk theory is determining the reference point from which states, or individual leaders, frame their decisions.<sup>110</sup> Mercer notes that political psychologists use one or more of five determinants to understand how an individual frames a decision: status quo as reference point, aspiration as reference point, heuristics, analogies, or emotion.<sup>111</sup> In the balance-of-risk theory, Taliaferro suggests that decision makers assess outcomes in relation to an expectation level, rather than a neutral reference point based on the status quo.<sup>112</sup> He argues that analysis of a

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<sup>106</sup> Jeffery W. Taliaferro, *Balancing Risks: Great Power Intervention in the Periphery* (Ithaca, NY: Cornell University Press, 2004), 17.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid., 5.

<sup>109</sup> Levy, “Applications of Prospect Theory,” 226.

<sup>110</sup> Mercer, “Prospect Theory and Political Science,” 5.

<sup>111</sup> Ibid.

<sup>112</sup> Taliaferro, *Balancing Risks*, 232.

state's perception of relative power, international standing, or status is the most useful method for determining the state's framing of a reference point.<sup>113</sup> When assessing relative power, international standing, or status leaders frame their reference point, and it is made evident through "planning documents, white papers on national security goals and strategies, public pronouncements, instructions to subordinates, and diplomatic communications."<sup>114</sup> If a state's position is facing gains relative to other states, it will set the current status quo as the reference point; however, if a state is facing or has experienced relative losses, it will aspire to return to the previous relative status and set that as its reference point.<sup>115</sup> Taliaferro also suggests that heuristics can be taken into account to help to determine how long, and in what conditions, a state will maintain an aspirational reference point based on a previous relative status.<sup>116</sup> Renormalization and the endowment effect explains that states will quickly adjust to a new status quo as a reference point if it reflects relative gains, while states will hold on to aspirational reference points (known as anchoring) in the domain of losses.<sup>117</sup> The longer a state maintains a particular reference point, the harder it will be for that state to renormalize a relative loss.<sup>118</sup>

## **1. Balance-of-Risk Thesis**

In testing the balance-of-risk theory on the case of Chinese behavior in the SCS, this paper expands on the four hypotheses that Taliaferro set forth in *Balancing Risks: Explaining Great Power Involvement in the Periphery*:

### **a. Hypothesis One (H1)**

The perception of senior officials about relative power trends influences the choice of a common expectation level. If decision makers anticipate a diminution of

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<sup>113</sup> Ibid., 47.

<sup>114</sup> Taliaferro, *Balancing Risks*, 47.

<sup>115</sup> Ibid.

<sup>116</sup> Ibid., 45.

<sup>117</sup> Ibid.

<sup>118</sup> Ibid., 46.

relative power or status over time, they are more likely to adopt a more favorable international environment as their expectation level. Conversely, if officials anticipate a relative increase in power and status over time, they are more likely to adopt the status quo as the expectation level.

***b. Hypothesis Two (H2)***

Senior officials' ability to revise their expectation level in response to adverse outcomes will be directly proportional to the length of time they adhere to a particular expectation level. The longer officials adhere to a common expectation level, the less likely they will be to revise that expectation level downward in response to adverse policy outcomes.

***c. Hypothesis Three (H3)***

Senior officials are more likely to initiate or persevere in risk-acceptant strategies in the periphery to avoid perceived losses. Conversely, senior officials are less likely to initiate in, or persevere, risk acceptant strategies in the periphery to secure perceived gains.

***d. Hypothesis Four (H4)***

Senior officials will likely continue and even escalate their commitment to risk acceptant but failing intervention strategies in the periphery. Therefore, senior officials are unlikely to reassess, scale back, or terminate ongoing risk-acceptant strategies.<sup>119</sup>

***e. Null Hypothesis (NH)***

Senior officials will adopt an invariant risk acceptance level, despite changes to relative power, expectation levels, the length of time expectation levels are maintained, or the success/failure of on-going strategies.

These four hypotheses were developed based on the independent variable, "anticipated changes in relative power, international standing, or status (over time),"

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<sup>119</sup> Taliaferro, *Balancing Risks*, 51–52.



represented by a relative gains or losses of the factors; an intervening variable, “leaders selection of an expectation level,” represented by the framing of a reference point; and a dependent variable, “the variation in leader’s risk taking,” represented by risk adverse or risk acceptant behavior.<sup>120</sup> Risk acceptant behavior is defined as actions, or lack of actions, may result in “serious losses resulting from great power’s own behavior, adversary or third party reactions, or other exogenous events.”<sup>121</sup> For this thesis, the definition of Chinese risk acceptant behavior is based off of Swaine and Fravel’s definition of assertiveness—new and unilateral behavior or words that are sanctioned by the government, that are confrontational, destabilizing, or threatening, and whose goal is to change the status quo. The definition fits within the scope of Taliaferro’s, as actions that meet the definition could destabilize the region, and potentially lead to conflict. This definition will maintain a threshold above unofficial actions or ‘utterances’ from officials that may not be sanctioned by the government.

## **2. Balance-of-Risk Applied to the South China Sea**

If the hypotheses are correct, this thesis should be able to prove that Chinese behavior should follow the pattern:

### ***a. Applied Hypothesis One***

Chinese leaders have anticipated a decrease in relative status in the SCS, and they should frame a favorable reference point. Chinese leaders should illustrate a national interest in increasing relative and hard power.

### ***b. Applied Hypothesis Two***

China has maintained consistent claims since Zhou Enlai’s 1951 declaration, so Chinese leaders should reject any renormalization—readjustment to a new less desirable reference point—that provides a territoriality outcome outside of the anchored reference point.

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<sup>120</sup> Taliaferro, *Balancing Risks*, 41.

<sup>121</sup> *Ibid.*, 22.

**c.      *Applied Hypothesis Three***

In the anticipation of losses, Chinese leaders should intervene against challenges in the SCS, and those interventions should include behaviors that are risk acceptant and outside of the standards of behavior and inter-state interaction set forth in international agreements.

**d.      *Applied Hypothesis Four***

Chinese behavior should show reluctance from disengaging from conflicts or risky behavior in the periphery, despite diminishing returns.

**e.      *Applied Null Hypothesis***

Chinese leaders should maintain a static risk acceptance level in the SCS, despite changes to relative power, expectation levels, the length of time expectation levels are maintained, or the success/failure of ongoing strategies.

In order to prove or disprove each of the four hypotheses, this thesis will provide evidence to prove or disprove each of the four hypotheses developed by the balance-of-risk theory for China's behavior in the SCS. The first hypothesis will use the expectations of Chinese leaders to establish the reference point, from which the subsequent hypotheses draw their conclusions.

**C.      *METHODOLOGY***

In expanding the discussion Taliaferro set forth in *Balancing Risks: Great Power Intervention in the Periphery*, this thesis uses a qualitative case study methodology. The case study mechanism allows for the examination of causal relationships and the testing of an established hypothesis. The data for the case study consists of white papers, scholarly articles, intelligence reports, and media reports. The secondary literature on Chinese international relations will be heavily relied upon, as access to primary documents—from transcripts of high-level meetings, private correspondence, to internal government documents—is limited at this time. The decision to study Chinese actions in

the SCS was an attempt to expand Taliaferro's theory while maintaining the rigor of case choice.<sup>122</sup>

The criteria Taliaferro used to determine his cases were: first, the case must represent a significant event; second, the case must have enough data to ensure within-case comparison; third, the case must represent a variation in the factors that allegedly affect risk taking in the periphery; and fourth, the case must contain a large within-case variation to the dependent variable.<sup>123</sup> This thesis argues the 2009 United Nations Convention on Law of the Sea (UNCLOS) CLCS deadline, which will be examined in the next chapter, represents a watershed moment for China's claims in the SCS. Chinese behavior in the SCS from 2006 leading up to the 2009 deadline and until 2015 provides a rich data set of important events that can be compared to trends of Chinese behavior from the 1990s until 2006. The variations in the factors that affect risk acceptance are the challenges to the status of China's claims in the SCS—these include challenges presented by oil and fishery resource recovery and international law by 2009 UNCLOS CLCS decisions in the wake of the 2008 International Court of Justice (ICJ) judgment between Singapore and Malaysia—and the in-case variation to the dependent variable is represented by the changing trends in risk acceptant Chinese behavior.<sup>124</sup>

In order to establish a method for testing the balance-of-risk hypothesis, Taliaferro established “a causal connection between officials' perceptions of gains and losses (relative to their expectation level) and their risk-taking behavior.”<sup>125</sup> Additionally, the balance-of-risk hypothesis is supported if the following conditions occur:

First, decision makers must evaluate outcomes in terms of the expectation level adopted at  $T$ . Second, decisions makers must perceive themselves as facing gains or losses relative to that expectation level at  $T + N$ . Third, the

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<sup>122</sup> Taliaferro, *Balancing Risks*, 18–19.

<sup>123</sup> Ibid.

<sup>124</sup> Naoatsu Aoyama, “Document Determines Outcome of Singapore-Malaysia Islet Dispute,” *Asahi Shimbun Globe*, April 14, 2013, <http://ajw.asahi.com/article/globe/feature/ICJ/AJ201304140014>.

<sup>125</sup> Taliaferro, *Balancing Risks*, 22.

aggregate risk taking behavior of officials must be in the predicted direction: risk acceptance for loss and risk aversion for gain.<sup>126</sup>

In the case of Chinese behavior in the SCS, for the theory to be proven true evidence must support an adopted Chinese expectation level, the Chinese perception of losses or gains from their expectation level, and risk behavior that follows Taliaferro's prediction of risk acceptance for loss and risk aversion for gain. The next chapter will identify two distinct periods in Chinese foreign policy towards the SCS, and it will present the framework necessary to test the applied versions of Taliaferro's hypotheses.

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<sup>126</sup> Taliaferro, *Balancing Risks*, 22.

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## **IV. A HISTORY OF CONFLICT IN THE SOUTH CHINA SEA**

Beginning in 2006, Chinese behavior became more assertive and risk acceptant and 2009 marks a watershed point where assertive Chinese behavior deviated from a historical period of demilitarization. The history of modern conflict in the SCS can be broken into a two periods: the first period includes the Cold War that is highlighted by militarized conflict over maritime disputes, and the second period is from the end of the Cold War until the present that features the demilitarization of disputes. The end of the Cold War marked a significant geopolitical change which defined a new era in Chinese foreign relations. The collapse of the Soviet Union reduced the threat of conflict, and the resolution of the Mischief Reef incident was an early example of China's emergence as a secure state willing to work in cooperation with its regional partners to de-escalate incidents. In 2009 UN CLCS required disputing claimants to formally declare their maritime claims, and this brought a renewed geopolitical importance to the disputes over EEZs and natural resources to the demilitarized period. This chapter will provide a history of conflict in the SCS, address the implications of UNCLOS CLCS, explore how Chinese leadership over the maritime domain evolved, and investigate settled Chinese territorial disputes in order to create a framework for testing the balance-of-risk hypotheses as a potential explanation for the change in Chinese behavior.

### **A. A HISTORY OF MILITARIZED CONFLICT IN THE SOUTH CHINA SEA 1945–1992**

Disputes over the of islands in the SCS were declared shortly after the San Francisco Conference failed to determine the sovereignty of the region, but China's militarization of the disputes did not occur until the geopolitics in the Cold War altered the position of China. After the souring of relations between the United Soviet Socialist Republic (USSR) and China, Chinese leaders feared the potential of a Vietnamese shift towards the USSR.<sup>127</sup> Relations between Beijing and Hanoi grew strained following

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<sup>127</sup> John W. Garver, "China's Push through the South China Sea: The Interaction of Bureaucratic and National Interests," *The China Quarterly*, no. 132 (December 1992), 1000, doi: 10.1017/S0305741000045513.

China's rapprochement with the United States, and the potential threat from the North Vietnamese granting Soviet access to the Paracel Islands, weakly controlled by the South Vietnamese, prompted China's militarization of the dispute.<sup>128</sup> After the Paris Peace Accords in 1973 reduced American military assistance to South Vietnam, rapprochement promised American non-involvement, and an increase in Soviet naval presence in the Pacific, Central Military Commission (CMC) chairman Mao Zedong and Premier Zhou Enlai directed CMC vice chairman Ye Jianying and Deng Xiaoping to personally supervise an operation to take the Paracel Islands.<sup>129</sup> On January 16, 1974, four Hainan class fast attack craft and two mine sweepers moved from a position in Amphitrite Group in the eastern Paracels that it had occupied since 1956, to support two Chinese fishing vessels that were testing a reduction of South Vietnamese garrisons in the Crescent Group but were rammed by a South Vietnamese destroyer.<sup>130</sup> On January 17 and 18, the Vietnamese naval forces consisting of three destroyers and one corvette came in close-proximity with the Chinese while maneuvering around the Crescent Group, and a fire fight erupted on January 19 as Vietnamese troops attempted to reclaim Duncan Island from Chinese forces that had occupied the island.<sup>131</sup> Without the support of the American Navy at the Battle of the Paracels on January 19 and 20, Chinese naval forces supported by air forces from Hainan Island easily defeated the South Vietnamese forces and removed their presence from the Paracel Islands.<sup>132</sup> By pushing the Vietnamese out of the Paracel Islands, Beijing achieved a national objective and pushed Moscow's forces several hundred miles further south from its southern border.

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<sup>128</sup> Garver, "China's Push through the South China Sea," 1001.

<sup>129</sup> Ibid., 1003.

<sup>130</sup> Buszynski, "South China Sea Maritime Dispute," 6; Minh Tri Ngo and Swee Lean Collin Koh, "Lessons from the Battle of the Paracel Islands," *The Diplomat*, January 23, 2014, <http://thediplomat.com/2014/01/lessons-from-the-battle-of-the-paracel-islands/>; Garver, "China's Push through the South China Sea," 1001.

<sup>131</sup> Buszynski, "South China Sea Maritime Dispute," 6; Ngo and Koh, "Lessons from the Battle of the Paracel Islands"; Garver, "China's Push through the South China Sea," 1004–5.

<sup>132</sup> Ibid.

In reaction to the Battle of the Paracels, North Vietnamese forces began occupying features in the Spratly Islands between April 11 and 22, 1975.<sup>133</sup> This occupation prompted numerous engagements between Chinese and Vietnamese naval forces from 1979 to 1982 during the Sino-Vietnamese War, and China moved half of its North Sea Fleet to the south, began apprehending Vietnamese surveillance vessels and crewmembers, and conducting its first air patrols and naval surveys by 1983.<sup>134</sup> From May 16 to June 6, 1987 China launched its first large scale naval patrol of the Spratly Islands, and began a major effort to establish a permanent position by building observation towers and structures on Fiery Cross Reef, Subi Reef, Johnston Reef, Cuarton Reef, Gaven Reef, and Dongment Jiao.<sup>135</sup> The occupation of features in the Spratly Islands caused the second major naval engagement between Vietnam and China on March 14, 1988. Garver presented the Chinese account, which says that two naval freighters accompanied an amphibious landing ship that deployed troops on Johnson Reef, and claims that the Vietnamese opened fire, despite warnings from Chinese troops stationed on the reef.<sup>136</sup> PLAN ships joined the skirmish, and it resulted in the sinking of one Vietnamese freighter, heavy damage to the other two ships, three Vietnamese casualties, nine prisoners, and 74 missing sailors.<sup>137</sup> Militarized tensions in the Spratly Islands continued as both Vietnam and China embarked on a military buildup through the early 1990s; however, without the geopolitical threat of Soviet encirclement, the settlement of the Cambodian conflict, and the setbacks of the Tiananmen massacre, China adopted de-escalatory rhetoric to ease tensions.<sup>138</sup>

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<sup>133</sup> Buszynski, "South China Sea Maritime Dispute," 6.

<sup>134</sup> Ibid., Garver, "China's Push through the South China Sea," 1008.

<sup>135</sup> Buszynski, "South China Sea Maritime Dispute," 6; Garver, "China's Push through the South China Sea," 109.

<sup>136</sup> Garver, "China's Push through the South China Sea," 1013.

<sup>137</sup> Ibid., 7; Fravel, "Maritime Security," 36.

<sup>138</sup> Garver, "China's Push through the South China Sea," 1014.



## **B. A HISTORY OF DEMILITARIZED CONFLICT IN THE SOUTH CHINA SEA 1992–2014**

The history of the demilitarized conflict in the SCS has two distinct periods. The first period begins at the end of the Cold War and continues until the beginning of 2006; after 2006, the geopolitical landscape of the SCS shifted again. The UN CLCS deadline in 2009 brought a renewed interests in the disputed territory as the value of islands and land features increased, based on their potential respective EEZs and contiguous zones, and behavior in the region changed. This section breaks the demilitarization of conflicts two periods featuring two different trends in Chinese behavior.

### **1. Demilitarization from 1992–2006**

Militarized disputes in the SCS during the 1970s and 1980s continued until the end of the Cold War changed China's geopolitical perspective for the next four years. Chinese Premier Li Peng proposed a joint development of the Spratly Islands, and China's delegate to Bandung, Wang Yingfan, recommended the establishment of an "appropriate mechanism or organization" to explore international cooperation.<sup>139</sup> The international situation dictated the Chinese de-escalation, and the 1995 Mischief Reef incident was the first example of the emphasis on regional cooperation. In March of 1995 the Philippines discovered China had occupied Mischief Reef in 1994 and built structures with a radar antenna and a small pier.<sup>140</sup> The discovery resulted in a ninety-minute battle between a Philippine naval gun boat and three Chinese naval vessels that marked the first military confrontation with Southeast Asian state besides Vietnam.<sup>141</sup> Tensions subsided after Chinese Foreign Minister Qian Qichen attended the ASEAN Region Forum in 1995 and promised that China would settle maritime territorial disputes according to international law and the recently enacted UNCLOS agreement.<sup>142</sup>

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<sup>139</sup> Garver, "China's Push through the South China Sea," 1016.

<sup>140</sup> Ibid., 1013.

<sup>141</sup> Council on Foreign Relations, "China's Maritime Disputes."

<sup>142</sup> Fravel, "Maritime Security," 36.

The militarized conflicts between China and Association of South East Asian Nations (ASEAN) member states Vietnam and the Philippines also led to the development of Code of Conduct (COC) for the SCS. After the Mischief Reef incident, ASEAN foreign ministers expressed “serious concern” and advised disputants “to refrain from taking actions that de-stabilize” the SCS.<sup>143</sup> The Philippines began lobbying for a COC to constrain China from further encroachment, but a five-year delay in drafting an ASEAN COC, a Chinese submitted COC, and their disagreements on the geographic scope, restrictions on construction projects on both occupied and unoccupied features, military restrictions surrounding the Spratly Islands, and procedures surrounding the detainment of fishermen in disputed waters led to the 2002 non-binding Declaration on Conduct of Parties in the SCS (DOC).<sup>144</sup>

## **2. Demilitarization from 2006–2013**

After the demilitarization following the Mischief Reef Incident, diplomatic disputes have been the major source of conflict in the SCS.<sup>145</sup> Disputants have exercised territorial claims in contested waters through commercial fishing, hydrocarbon exploration, and other domestic legal means.<sup>146</sup> As Vietnam increased hydrocarbon exploration in 2006 and 2007, China issued 18 diplomatic objections with foreign oil companies who were planning to explore offshore oil and natural gas resources in disputed waters.<sup>147</sup> Fravel argued that fishermen operating in traditional fishing grounds, which occur in overlapping territorial claims, have also played an important role in exercising territorial claims.<sup>148</sup> China maintains multiple agencies to contest and assert fishing and hydrocarbon claims—Fisheries Law Enforcement Command (FLEC), SSRFAB, MSF, and China Coast Guard amongst others.

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<sup>143</sup> Carlyle A. Thayer, “ASEAN, China and the Code of Conduct in the South China Sea,” *SAIS Review of International Affairs* 33, no. 2 (Summer-Fall 2013), 76–77, doi: 10.1353/sais.2013.0022.

<sup>144</sup> *Ibid.*

<sup>145</sup> Fravel, “Maritime Security,” 36.

<sup>146</sup> *Ibid.*, 37.

<sup>147</sup> *Ibid.*, 36.

<sup>148</sup> *Ibid.*, 37.

The South Sea Regional Fisheries Administration Bureau, a department of the Bureau of Fisheries Administration within the Ministry of Agriculture, was strengthened over the last decade to enforce domestic fishing laws and supervise fishing in contested waters.<sup>149</sup> The SSRFAB escorts fishing vessels in disputed waters in order to protect fishing vessels and declare Chinese jurisdiction.<sup>150</sup> Between 2005 and 2009, the SSRFAB increased the amount of time its vessels were at sea from 477 to 1,235 days.<sup>151</sup> While it is difficult to determine the quantity and severity of incidents between fishermen from disputant states, typically Vietnam, Fravel cited Vietnamese newspaper *Than Thein News* that reported between 2005 and 2010 China detained 63 fishing boats and 725 fishermen.<sup>152</sup> Vietnam also patrols contested waters, and Chinese People's Daily Press newspaper *Huanqiu Shibao* reported 300 incidents since 1989 including three incidents in 2009 where Vietnamese boats fired on Chinese fishing boats.<sup>153</sup>

China's Maritime Surveillance Force, part of the State Oceanographic Administration, provides a similar function as the SSRFAB. A mission of the MSF is to "safeguard maritime rights and interests," which accomplished by patrols and expressions of sovereignty—such as the 2010 MSF vessel that dropped a Chinese sovereignty marker on James Shoal.<sup>154</sup> The MSF was involved in three important incidents in 2011: the first, two MSF vessels "expelled" a Philippine seismic survey ship in the Reed Bank; the second, an MSF vessel cut the tow cable of PetroVietnam's Binh Minh 2 that was 120 nautical miles (NM) off of Vietnam's central coast; finally, includes a contested incident including an SSRFAB vessel and a "fishing boat with a 'specialized cable-slashing device'" that "became ensnarled" with the towed sonar equipment of Canadian Talisman Energy's Viking II.<sup>155</sup> These events represent the capacity of non-military law enforcement agencies to exercise Chinese jurisdiction in disputed waters, and the status

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<sup>149</sup> Fravel, "Maritime Security," 37.

<sup>150</sup> Ibid.

<sup>151</sup> Ibid.

<sup>152</sup> Ibid.

<sup>153</sup> Ibid., 36.

<sup>154</sup> Ibid., 36–37.

<sup>155</sup> Ibid., 37–39.

of the SSRFAB and MSF as non-military vessels have established a norm for intervention.

The other means that states have used to exercise their rights to claims in the SCS take the form of domestic legal measures. In April 2007, Vietnam established a township and two villages in the Spratly Island Trong Sa district of Khanh Hoa Province to display Vietnamese administrative control.<sup>156</sup> In February 2009, the Philippine legislature passed an archipelagic baseline law that legally defined their domestic claims to features in the Spratly Islands.<sup>157</sup> In June 2012, the Vietnamese National Assembly passed the Maritime Law that created the domestic legal claim for features in the Paracel and Spratly Islands.<sup>158</sup> Also in June, China elevated the Paracel Islands, Macclesfield Bank, and the Spratly Islands from a county-level administrative office to prefecture-level city named Sansha City that is a part of Hainan Province.<sup>159</sup> Fravel noted the importance of these domestic legal measures as ways to demonstrate sovereignty, for example the upgrade of Sansha created the institutional infrastructure to display increased sovereignty through tourism and fishing.<sup>160</sup>

### **3. Interactions with U.S. Military**

China has also used the SSRFAB and MSF to exercise its view that the U.S. and other states should not conduct maritime surveillance in its EEZ. After two publicized examples of People's Liberation Army (PLA) interactions with U.S. reconnaissance platforms in 2001—the *USNS Bowditch* was threatened by a PLAN Jianhe III-class frigate and a PLA Air Force F-8 fighter collided with a U.S. Navy EP-3, both in the South China Sea—it appears the SSRFAB and MSF vessels took over the role of signaling when Beijing desires to object to U.S. military surveillance in its EEZ.<sup>161</sup>

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<sup>156</sup> Fravel, "Growing Competition," 45.

<sup>157</sup> *Ibid.*, 44.

<sup>158</sup> *Ibid.*

<sup>159</sup> *Ibid.*, 44–45.

<sup>160</sup> *Ibid.*

<sup>161</sup> Pete Pedrozo, "The U.S.-China Incidents at Sea Agreement: A Recipe for Disaster," *Journal of National Security Law and Policy* 6, no. 1 (January 2012), 211–12, [http://jnslp.com/wp-content/uploads/2012/08/07\\_Pedrozo-Master.pdf](http://jnslp.com/wp-content/uploads/2012/08/07_Pedrozo-Master.pdf).

Interactions featuring U.S. military vessels and SSRFAB, MSF, or PLAN vessels exercising China's views on maritime surveillance appear consistent throughout the demilitarized period.

Recent examples from the *USNS Impeccable* and *USS Cowpens* illustrate the trend over time. In 2009, the *USNS Impeccable* was involved in an incident where one PLAN intelligence ship, an MSF vessel, a Fisheries Law Enforcement Command—part of the SSRFAB, and two commercial cargo ships surround the *USNS Impeccable*. Reports from the *USNS Impeccable* indicate that the civilian ships attempted to cut the towed array sonar cable. After their attempts were unsuccessful, they maneuvered at close distance eventually stopping in front of the *USNS Impeccable* causing her to take emergency action to avoid collision.<sup>162</sup> In 2013, China reiterated its desire for the U.S. to stop conducting surveillance in its EEZ when a PLAN ship made radio contact and requested the *USS Cowpens*, which was observing the Chinese aircraft carrier *Liaoning*, leave the area.<sup>163</sup> After the *USS Cowpens* asserted its right to operate in international waters, a PLAN amphibious ship dangerously maneuvered in front of the *USS Cowpens* forcing it to take emergency actions to avoid collision.<sup>164</sup>

### C. THE IMPLICATIONS OF UNCLOS

The 1982 UNCLOS agreement, which came into force November 16, 1994, was ratified by China on June 7, 1996.<sup>165</sup> Within the framework of UNCLOS, China excluded Article 2 of the Law on the Territorial Sea and the Contiguous Zone, as well as listing the Paracel and Spratly Islands as its territorial sea.<sup>166</sup> Additionally, in 2006 the Chinese government filed a statement with UNCLOS reiterating its exemption of the dispute resolution section noting China, “does not accept any of the procedures provided for in

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<sup>162</sup> Pedrozo, “U.S.-China Incidents at Sea Agreement,” 211–12.

<sup>163</sup> Carl Thayer, “*USS Cowpens* Incident Reveals Strategic Mistrust between U.S. and China,” *The Diplomat*, December 17, 2013, <http://thediplomat.com/2013/12/uss-cowpens-incident-reveals-strategic-mistrust-between-u-s-and-china/>.

<sup>164</sup> *Ibid.*

<sup>165</sup> Buszynski, “South China Sea Maritime Dispute,” 7.

<sup>166</sup> *Ibid.*

Section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a), (b), and (c) of Article 298 of the Convention.”<sup>167</sup> The procedures refer to binding decisions from the International Tribunal on the Law of the Sea, the International Court of Justice, an arbitral tribunal, or a special arbitral tribunal—either of which may apply to the UN Permanent Court of Arbitration.<sup>168</sup> Despite having a ten year notice, Fravel argued the May 2009 deadline for submission of maritime baseline and EEZ claims to the CLCS forced disputants to make their claims legally explicit which increased territorial tensions in the region.<sup>169</sup>

On 6 May 2009, Malaysia and the Socialist Republic of Vietnam presented a joint submission to the UN CLCS, pursuant to Article 76 paragraph 8 of the UN Convention on the Law of the Sea 1982, for the 200 nautical mile delineation of the outer limits of their respective continental shelves.<sup>170</sup> In response, the Chinese Government presented the UN Secretary General with two *Notes Verbales* and requested that they be presented to all UN Member States.<sup>171</sup> The *Notes Verbales* reflected the region’s historic instability and numerous overlapping claims, challenged the joint submission, and stated: “China has indisputable sovereignty over the islands in the SCS and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and

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<sup>167</sup> Daniel Wagner and Edsel Tupaz, “China, the Philippines and the Rule of Law,” *The World Post*, January 23, 2013, [http://www.huffingtonpost.com/daniel-wagner/china-philippines-rule-law\\_b\\_2533736.html](http://www.huffingtonpost.com/daniel-wagner/china-philippines-rule-law_b_2533736.html).

<sup>168</sup> Ibid.

<sup>169</sup> Fravel, “Maritime Security,” 36–37.

<sup>170</sup> Malaysia and The Socialist Republic of Vietnam, *Joint Submission to the Commission on the Limits of Continental Shelf Pursuant to Article 76, Paragraph 8 of the United Nations Convention on the Law of the Sea 1982 in Respect to the Southern Part of the South China Sea* (N.p.: United Nations, May 2009), 1, [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/mysvnm33\\_09/mys\\_vnm2009executivesummary.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/mysvnm33_09/mys_vnm2009executivesummary.pdf).

<sup>171</sup> DOS, *Limits In The Seas*, 1.

subsoil thereof.”<sup>172</sup> This phrase has been continually repeated by Chinese officials since 2009.<sup>173</sup>

China’s second *note verbale* in 2011 was submitted in response to a *note verbale* presented to the UNCLOS in April of 2011 objecting to China’s 2009 *note verbale* and the nine-dashed line.<sup>174</sup> Swaine and Fravel cited an international law expert who explained the implications of the 2011 *note verbale* as, China “stated—for the first time—that the islands are entitled to a territorial sea, EEZ, and continental shelf.”<sup>175</sup> Coupling this with the inclusion of the ‘seabed and subsoil thereof,’ this language is consistent with the China’s domestic EEZ law from 1998, and provides the most comprehensive interpretation of their claim to date; however, Chinese officials have not explicitly expressed or clarified their claim, which has led to ambiguity.

While the PRC has maintained consistent claims since Zhou Enlai’s 1951 declaration, the nine-dashed line map was first produced as legal evidence to the international community attached to the 2009 *Notes Verbales*.<sup>176</sup> In 2011, the PRC requested another *Note Verbale* be presented to UN Member States which reiterated their claims and added: “China’s sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence.”<sup>177</sup> The 2009 and 2011 declarations and reference map create a significant territorial and sovereignty problem for the Philippines, Vietnam, Malaysia, Indonesia, Brunei, and Taiwan. Figure 3 depicts the map as presented by the PRC in the 2009 *Notes Verbales*.

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<sup>172</sup> DOS, *Limits in the Seas*, 1; Swaine and Fravel, “Maritime Periphery,” 2.

<sup>173</sup> Swaine and Fravel cite: “Foreign Ministry Spokesperson Jiang Yu’s Regular Press Conference on January 5, 2010,” Ministry of Foreign Affairs of the People’s Republic of China, January 6, 2010, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t650054.html>; “Foreign Ministry Spokesperson Hong Lei’s Regular Press Conference on February 1, 2011,” Ministry of Foreign Affairs of the People’s Republic of China, February 2, 2011, <http://www.fmprc.gov.cn/eng/xwfw/s2510/2511/t792082.html>; “Foreign Ministry Spokesperson Jiang Yu’s Regular Press Conference on March 24, 2011,” Ministry of Foreign Affairs of the People’s Republic of China, March 25, 2011, <http://www.fmprc.gov.cn/eng/xwfw/s2510/t810015.html>.

<sup>174</sup> Swaine and Fravel, “Maritime Periphery,” 3.

<sup>175</sup> Ibid.

<sup>176</sup> DOS, *Limits in the Seas*, 1.

<sup>177</sup> Ibid.



Figure 4. Map of the South China Sea Islands (2009)<sup>178</sup>

The Chinese claims have remained consistent, but the nine-dashed line map provided in the *Note Verbale* does not feature corresponding geographic coordinates that specify the extent of the claim, identify which features have which characteristics, or explained exactly what “China’s sovereignty and related rights” means, and this has led to further ambiguity in the Chinese claim.<sup>179</sup> Fravel cited Greg Austin of the EastWest Institute, who noted the use of dashes suggested an “indefinite or uncertain boundary,” which would be consistent with the earlier removal of the dashes in the Gulf of Tonkin.<sup>180</sup> Additionally, the domestic Chinese EEZ Law does not delineate the geographic boundary of the nine-dashed line as Article 14 states the EEZ “shall not affect the historic rights that the PRC enjoys.”<sup>181</sup> The 2009 UNCLOS CLCS deadline created

<sup>178</sup> “Map of South China Sea Islands,” map, 2009, DOS, *Limits in the Seas*, 2.

<sup>179</sup> DOS, *Limits in the Seas*, 6.

<sup>180</sup> Fravel, “Growing Competition,” 45.

<sup>181</sup> *Ibid.*, 40.



what Fravel and Swaine called “a moment for states to issue claims, counter-claims, and counter counter-claims.”<sup>182</sup> In that respect, UNCLOS has not helped to resolve any of the disputes in the SCS, but it did create a platform for each of the claimants to present their positions.

#### **D. LEADING CHINESE DECISION MAKERS FOR MARITIME POLICY**

After a series of consolidations, the most important figure of maritime policy making in the Communist Party of China is Xi Jinping. Xi’s roles as general secretary of the CPC, president of the PRC, chairman of the Central Military Commission, chairman of the Politburo Standing Committee (PSC) of the CPC Central Committee, and chairman of the recently created State Security Committee places him in the top position of power across the state, party, and military.<sup>183</sup> Additionally, Xi is believed to head the National Security Leading Small Group (LSG), the Foreign Affairs LSG, and the new LSG for the Protection of Maritime Interests.<sup>184</sup> Leadership of the LSG for the Protection of Maritime Interest gives Xi direct link to senior leaders who determine maritime policy—senior ministers from the Ministry of Foreign Affairs (MFA), the Ministry of Public Security (MPS), the Ministry of Agriculture (MOA), the State Oceanic Administration (SOA), and the PLA Navy are the principle ministries believed to be included.<sup>185</sup>

Other influential decision makers for maritime policy are former professor of international relations and Xi’s “behind-the-scenes” advisor Wang Huning, the head of the Central Committee Propaganda Department Liu Qibao who issues China’s public rhetoric and maritime policy, and the CPC Central Committee (CC) General Office head Li Zhanshu who controls the flow of information to senior leaders. Each of these men is a Politburo member and personally linked to Xi; however, they do not hold positions representing the state and they do not interact with foreigners so their views are

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<sup>182</sup> Swaine and Fravel, “Maritime Periphery,” 3.

<sup>183</sup> Linda Jakobson, *China’s Unpredictable Maritime Security Actors* (Sydney, Australia: Lowy Institute for International Policy, December 11, 2014), 12, <http://apo.org.au/research/chinas-unpredictable-maritime-security-actors>.

<sup>184</sup> Ibid., 13.

<sup>185</sup> Ibid.

unknown. The provincial Party secretaries in the coastal provinces of Guangdong and Hainan maintain influential leaders who are also Politburo and Central Committee members.<sup>186</sup>

Within the MFA, the Department of Boundary and Ocean Affairs (DBOA) was created in 2009 with the purpose of developing policies for maritime boundaries, handle international relations concerning territories, maps, and place names, as well as participate in diplomatic negotiations on maritime delineations. Jakobson reported that despite experience dealing with international relations, interviews with MFA bureaucrats indicated it was “a weak department within a weak ministry,” with its decisions routinely overridden.<sup>187</sup> Further complicating the MFA, as Politburo members the six provincial Party leaders all outrank Yang Jiechi, the state councilor for foreign affairs who is only a Central Committee Member, they retain direct links to the top leadership and are in a powerful position to affect SCS maritime policy.<sup>188</sup>

Prior to 2013 China maintained five civilian maritime law enforcement agencies: China Maritime Police, China Maritime Surveillance (CMS), Fisheries Law Enforcement Command, Maritime Anti-Smuggling Bureau, and Maritime Safety Administration (MSA), but a recent consolidation brought all of these agencies under the newly established State Oceanic Commission. Jakobson noted that many analysts expect the commission to oversee the drafting of a national maritime strategy and basic law of the ocean for the SCS. All of China’s maritime law enforcement agencies were restructured into one fleet that will be called the “China Coast Guard.”<sup>189</sup> Jakobson does note the role of the PLAN in China’s maritime policy is unknown, but the consolidation of agencies does make interactions easier to accomplish.

As the Politburo and CPC maintain their traditional commitment to secretiveness, both Western and Chinese scholars are unable to study Chinese elite decision making. Despite a lack of access, it is evident that Xi has accomplished two major initiatives:

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<sup>186</sup> Jakobson, *China’s Unpredictable Maritime Security*, 12–13.

<sup>187</sup> *Ibid.*, 15.

<sup>188</sup> *Ibid.*, 17.

<sup>189</sup> *Ibid.*, 30.

consolidating power across the maritime domain and putting in place the policies to become a maritime power. In mid-2012 while he was leader-in-waiting, Xi's first new appointment was as head of the newly created LSG for the Protection of Maritime Interests, and the trend of consolidating power over the maritime institutions was continued by placing each of the agencies dealing with the exercise of maritime sovereignty or jurisdiction under his direct control—MFA and DBOA, SOA with the China Coast Guard and MSF, MOA with the SSRFAB, and the PLAN. One of Jakobson's senior interviewees indicated this collusion of agencies has even included the powerful coastal provinces. The interviewee, a CPC representative from Hainan, reported meeting monthly with senior law enforcement officials, and occasionally senior PLAN officers participate in these planning meetings. The interviewee also expressed informal discussions with oil company representatives, provincial officials, maritime scholars, and media representatives.<sup>190</sup>

Xi's second initiative, creating the policies to become a maritime power, is evident from the recent history of Chinese five-year plans—the CPC plans that set the guidelines for development or reform. The eleventh Chinese five-year plan from 2006–2010 included just one section on the maritime, but that increased in the twelfth five-year plan to include an entire new chapter on the marine economy.<sup>191</sup> Chinese defense white papers from 2002–2010 only mentioned the marine domain in reference to a subsections, a chapter in 2006 on building border and costal defense mentions the joint patrols in the Gulf of Tonkin with Vietnam, a chapter in 2008 focused on naval modernization and force building, and a chapter in 2010 on military confidence building has a subsection on dialogues and cooperation on maritime security.<sup>192</sup> China's 2012 defense white paper, "The Diversified Employment of China's Armed Forces," elevated the role of the

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<sup>190</sup> Jakobson, *China's Unpredictable Maritime Security*, 30.

<sup>191</sup> *Ibid.*, 8.

<sup>192</sup> "China's National Defense in 2006," White Paper, Information Office of the State Council of the People's Republic of China, 2006, <http://www.china.org.cn/english/features/book/194421.htm>; "China's National Defense in 2008," White Paper, Information Office of the State Council of the People's Republic of China, January 20, 2009, [http://www.china.org.cn/government/whitepaper/node\\_7060059.htm](http://www.china.org.cn/government/whitepaper/node_7060059.htm); "China's National Defense in 2010," White Paper, Information Office of the State Council of the People's Republic of China, March 31, 2011, [http://www.china.org.cn/government/whitepaper/node\\_7114675.htm](http://www.china.org.cn/government/whitepaper/node_7114675.htm).

maritime, it received equal weight as the air and land domains, and included a specific subsection on safeguarding maritime rights and interests.<sup>193</sup> Xi's policy decisions demonstrate an increased level of elite interest in the SCS, and they are the foundation for directing Chinese behavior that is illustrative of a favorable reference point.

#### **E. AN EXAMINATION OF RESOLVED TERRITORIAL DISPUTES**

M. Taylor Fravel's seminal investigation into Chinese territorial disputes, *Strong Borders, Secure Nation: Cooperation and Conflicts in China's Territorial Disputes*, examined Chinese behavior presenting three strategies leaders can employ to reach their territorial goals: first, states can delay; second, states can cooperate, but cooperation can be costly because of the domestic price of territorial concessions; finally, states can escalate the dispute, although escalation can also carry a heavy price in the form of human and material costs, the political ramifications of defeat, and the uncertainty of conflict.<sup>194</sup> Fravel's thematic conclusions are that China has not been prone to using force, domestic political instability creates a strong incentive for concessions on international disputes, and "a decline in bargaining power" was a strong motivator to use force in territorial disputes.<sup>195</sup>

Fravel found that as China increased its economic and military power over the last twenty years, it has been more likely to compromise than escalate disputes. The largest driver of concession appears to be domestic unrest, and Fravel argued that the revolts in Tibet caused China to provide concessions to Burma, Nepal, and India in 1960 to settle border disputes. Additionally, he points to unrest in Xinjiang in the early 1990s as the cause for similar concessions settling disputes with Kazakhstan, Kyrgyzstan, and Tajikistan. In both cases of nationalist unrest, China traded concessions in settling border disputes for assistance in suppressing its domestic opponent abroad.<sup>196</sup>

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<sup>193</sup> Jakobson, *China's Unpredictable Maritime Security*, 8; "The Diversified Employment of China's Armed Forces," White Paper, Information Office of the State Council of the People's Republic of China, April 16, 2013, [http://www.china.org.cn/government/whitepaper/node\\_7181425.htm](http://www.china.org.cn/government/whitepaper/node_7181425.htm).

<sup>194</sup> Fravel, *Strong Borders, Secure Nation*, 12–13.

<sup>195</sup> *Ibid.*, 300.

<sup>196</sup> *Ibid.*

Fravel points to the escalation of the Taiwanese straits crisis in 1955, 1958, and 1995 as evidence that declining bargaining power will create the incentive for escalation even in homeland disputes. In the 1950s, an increase in U.S. military support for Taiwan threatened permanent separation, and Fravel argued the escalation to militarization of the first two Taiwanese Straits crisis was a response from China's weakened position. When the U.S. supported 1990s democracy movement in Taiwan threatened permanent separation again, the 1995 crisis escalation was a signal of commitment despite a weakened position.<sup>197</sup>

In the SCS, China has only resolved one territorial dispute and Fravel argued China has generally taken a position of delay, has "never entered into talks with any of its adversaries concerning the sovereignty of these areas," and, when pressed, it has escalated crises to strengthen their position.<sup>198</sup> Fravel believed the consistency of China's claim was "noteworthy," and he argued that because Taiwan has claimed sovereignty over the SCS it is a nationalist issue meaning concessions would weaken its claim as the legitimate government of "one China."<sup>199</sup> Fravel even argued that China's one instance of resolving a dispute in the SCS was an anomaly, as Mao's decision in 1957 to transfer control of White Dragon Tail Island in the Tonkin Gulf was made in the context of supporting North Vietnam against the US. According to Fravel's account of Chinese scholars, Mao was ideologically motivated by socialism to help an ally well before leaders recognized the economic value of maritime territory and their resources in an EEZ. As the increased importance of the islands became clear in the 1970s, Fravel argued that China's claims became weaker, and the resulting conflicts in 1974 and 1988 were escalations intended to strengthen the Chinese position. In the context of Fravel's argument, the demilitarization in the disputed islands is the result of China's rise, the increased ability of the PLAN to exercise China claims, and the increased strength of China's claims. Fravel presented China's decision not to react to Vietnam and Malaysia's

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<sup>197</sup> Fravel, *Strong Borders, Secure Nation*, 301.

<sup>198</sup> Ibid., 267.

<sup>199</sup> Ibid., 268.

occupation of additional features in the Spratly Islands in 1998 and 1999 as evidence of China's perceived position of power.<sup>200</sup>

Fravel's examination of Chinese territorial disputes and resolutions indicates two things for the SCS: first, based on the consistency and nationalist nature of China's claim it is like China would be unwilling actually settle or reduce its claim; and second, a weakening of the strength of its claims would be a catalyst for escalation and conflict. These two features from Fravel's work mean that the status of China's claims and the international institutions that could affect or mediate the disputes should take an increased importance in Chinese foreign policy. In the case of a significant domestic crisis, the White Dragon Tail concession to Vietnam does provide an historic precedent that Chinese leaders could use to justify island concessions for assistance in ending the crisis like was the case in 1960 and the early 1990s.

## **F. CONCLUSION**

The history of militarized and demilitarized conflict in the SCS significantly complicates the current status of disputes in the SCS. As the conflicts demilitarized, civilian agencies representing fishing and hydrocarbon exploration became the new representation of sovereignty. During the period of demilitarization, 2006 marked a shift in Chinese behavior leading up to the 2009 UNCLOS CLCS declaration of territorial claims by SCS disputants. The continuity of Sino-U.S. surveillance related incidents is a useful tool to illustrate that there is a separation between Chinese behavior with respect to its territorial disputes and maritime surveillance in its claimed EEZ. Fravel's analysis of Chinese conflict resolution also provides a tool for understanding variations in Chinese behavior regarding territorial disputes, and provides a historical basis for Chinese risk acceptance during periods of declining relative strength. This thesis will use this framework to examine if the balance-of-risk hypotheses can explain the deviation in Chinese behavior. The next chapter will provide specific evidence in an attempt to prove each applied hypothesis.

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<sup>200</sup> Fravel, *Strong Borders, Secure Nation*, 298.

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## **V. EVIDENCE**

### **A. EVALUATING CHINA'S ACTIONS IN THE SOUTH CHINA SEA**

In order to evaluate whether Chinese actions in the SCS are consistent with the Balance-of-risk Theory described in Chapter III, this thesis will present evidence supporting or refuting each of the four hypotheses and the null hypothesis. The analysis of Chinese behavior focuses on events which occurred from 2006 leading up to the 2009 declaration of Chinese territorial claims to the international audience within UNCLOS CLCS.

### **B. APPLIED HYPOTHESIS ONE**

AP-1: Chinese leaders have anticipated a decrease in relative status in the SCS, and they should frame a favorable reference point. Chinese leaders should illustrate a national interest in increasing relative and hard power.

In the context of the International Court of Justice's hearings and territorial sovereignty decision over the maritime dispute between Singapore and Malaysia, this thesis argues that the 2009 deadline for submissions to the UNCLOS CLCS threatened to decrease the relative status of China in the SCS, and the perceived systemic pressures caused Chinese leaders to choose a favorable reference point illustrated by the nine-dashed line map. This section will begin by defining the shift in geopolitical context that began in 2006, and it will present evidence of an adjustment to Chinese elite perception reflected in changes to foreign policy, increases in the power and capabilities of maritime institutions, and updates of hard power, military doctrine, strategy, and tactics that are aligned with framing a favorable reference point of the territory inside of the nine-dashed line map.

The context of the SCS disputes prior to 2006 was a period of reduced tensions and demilitarization. The Mischief Reef incident in 1995 was the last time China physically took a disputed island by force, and China's restraint from challenging the occupation of additional features by Vietnam and Malaysia in 1998 and 1999 is consistent with Fravel's argument that as China's relative and hard power increased its



need to use force to maintain its position declined.<sup>201</sup> The 2002 DOC also demonstrated that China had increased confidence in its ability to control the outcomes of territorial disputes in the SCS.<sup>202</sup> The international context of island disputes began to change in 2002 after the precedent set by the International Court of Justice regarding sovereignty of *Pulau Ligitan* and *Pulau Sipadan* between Indonesia and Malaysia offered establishment of a dispute resolution mechanism.<sup>203</sup> In 2006 Singapore and Malaysia continued the trend of settling island disputes through the ICJ by submitting documentary evidence in the dispute over *Pedra Branca* and Middle Rocks Reef—two features in the Singapore Straits.<sup>204</sup> This dispute was notable because it mirrors many of those in the SCS, Singapore maintained control of *Pedra Branca* with little incentive and a greater risk to arbitrate, the records were based on colonial era documents, local fishermen working in tradition waters inflamed the dispute, and neither side could find resolve the dispute through bi-lateral negotiations. In 2008 the ICJ issued a judgement awarding *Pedra Branca* to Singapore and the Middle Rocks Reef to Malaysia based on the 1953 letter from Acting State Secretary of Johor to the British colonial government stating they did not claim ownership of *Pedra Branca*.<sup>205</sup> The ICJ's ruling continued the precedent for future arbitration of disputed maritime territories. In 2009, the UNCLOS CLCS continued to change the international context by requiring states to clarify their claims to territorial waters, continental shelves, and EEZs which formalized disputes in an international institution. Malaysia and Vietnam took advantage of this international platform to formally declare their disputes, and the Philippines took it one step farther in January of 2013 by notifying the Chinese ambassador they would be seeking arbitration of their dispute under UNCLOS CLCS.<sup>206</sup> Regardless of the strength of their case or the ability to compel China to participate in arbitration, the Philippine case is a perceived

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<sup>201</sup> Fravel, *Strong Borders, Secure Nation*, 298.

<sup>202</sup> Ibid.

<sup>203</sup> "Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia)," International Court of Justice, December 17, 2002, <http://www.icj-cij.org/presscom/index.php?pr=343&pt=1&p1=6&p2=1>.

<sup>204</sup> Aoyama, "Document Determines Outcome of Singapore-Malaysia Islet Dispute."

<sup>205</sup> Ibid.

<sup>206</sup> "Philippines 'to Take South China Sea Row to Court,'" *BBC News*, January 22, 2013, <http://www.bbc.com/news/world-asia-21137144>.

threat to the China's territoriality in the SCS that could result in the future arbitration for all of China's formalized maritime disputes. This is a significant challenge to the China's confidence in its ability to control the resolution of its maritime disputes.

After observing the changes in their geopolitical position beginning in 2006, the CPC adjusted its foreign policy. At the 2009 Party's Central Work Conference on Foreign Affairs in 2009, President Hu revised the Deng Xiaoping's famous '24 character' guide to China's foreign policy which has acted as its guide since the early 1990s.<sup>207</sup> The change to Chinese foreign policy was confirmed in a December 2012 *Jiefangjun Bao* (official paper of the People's Liberation Army) article summarizing a speech by General Ma Xiaotian, Deputy Chief of the General Staff of the PLA, given to the China Institute for International Strategic Studies (PLA think tank based in Beijing).<sup>208</sup> Fravel argued that the official pronouncement of the reformulated policy, as noted earlier the new policy is stated as: "uphold (*jianchi*) keeping a low profile and actively (*jiji*) achieve something," by a military officer confirmed the policy change, illustrated the growing role of the military in foreign policy, proved a consensus between the PLA and CPC on foreign policy.<sup>209</sup> While Yahuda and others point to the economic downturn of the US, European Union, and West in the global recession and the growing importance of the Brazil, South Africa, India, and China (BASIC) were threatening to replace the G-8 with the G-20 was a possible explanation of the change in foreign policy; this thesis acknowledges the impact of the global financial crisis, but argues that the foreign policy change is a result of the pressures placed on China's position in the SCS and is supported by rhetoric expressing a favorable reference point, the strengthening of China's maritime institutions, and the changing of maritime strategy and tactics.<sup>210</sup> Although this evidence may appear tautological, Chinese behavior was directed by proactive policy decisions in place before the global financial crisis affected the Chinese position in the international system.

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<sup>207</sup> Yahuda, "China's New Assertiveness," 446; Fravel, "Revising Deng's Foreign Policy."

<sup>208</sup> Fravel, "Revising Deng's Foreign Policy."

<sup>209</sup> Ibid.

<sup>210</sup> Yahuda, "China's New Assertiveness," 446.

Chinese leaders have expressed rhetoric that has increased the importance of the disputed territory in the SCS. Former state councilor Dai Bingguo, the senior PRC official responsible for foreign policy, defined China's "core interests" in July 2009 as including three components: "preserving China's basic state system and national security," "national sovereignty and territorial integrity," and "the continued stable development of China's economy and society."<sup>211</sup> After Dai's defining remarks, Chinese officials referred to "sovereignty and territorial integrity" as China's most important "core interest."<sup>212</sup> Chinese officials have also repeatedly called core interests non-negotiable, and phrases like "never waver, compromise, or yield" or "must stand firm, be clear-cut, have courage to fight, and never trade away principles" have been used to highlight the significance the PRC places on these issues. The PRC has labeled territorial issues Taiwan, Hong Kong, Xinjiang, and Tibet as core interests, and these represent the most important foreign policy issues to the PRC.<sup>213</sup> In March 2010, the *New York Times* reported that Obama Administration senior officials Jeffrey A. Bader and James B. Steinberg were told by PRC officials that "that China would not tolerate any interference in the SCS, now part of China's 'core interest' of sovereignty."<sup>214</sup> Secretary of State Hillary Clinton repeated the inclusion of the SCS as a core interest at an Australian press interview, and the Associated Press reported that Dai had officially expressed this opinion to Clinton during a strategic and economic dialogue in Beijing.<sup>215</sup> Subsequently, it appears as though the position has not been substantiated by any PRC official, official PRC press releases, or formal PRC documents. Official visits between Chinese Defense Minister Liang Guanglie and U.S. Secretary of Defense Robert Gates, Hanoi in 2010, and President Hu Jintao and President Barack Obama, Washington 2011, did not clarify the

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<sup>211</sup> Michael D. Swaine, "China's Assertive Behavior—Part One: On 'Core Interests,'" *China Leadership Monitor*, no. 34 (Winter 2011), 4, <http://www.hoover.org/research/chinas-assertive-behavior-part-one-core-interests>.

<sup>212</sup> Ibid.

<sup>213</sup> Ibid., 8.

<sup>214</sup> Edward Wong, "Chinese Military Seeks to Extend Its Naval Power," *New York Times*, April 23, 2010, <http://www.nytimes.com/2010/04/24/world/asia/24navy.html?pagewanted=all>.

<sup>215</sup> Swaine, "Core Interests," 9; "LEAD: China Retracts Policy on S. China Sea, Tells U.S.+", *Associated Press*, October 22, 2010, <http://news.yahoo.com/lead-china-retracts-policy-china-sea-tells-u.html>.

status of SCS as a core interest.<sup>216</sup> While accounts vary of the use of the term ‘core interest,’ Chinese rhetoric appears to signal that the SCS has assumed the status of a national interest at the very least slightly below the level reserved for Taiwan, Xinjiang, or Tibet.

After assuming control of the CPC and state, Xi continued a rhetorical position consistent with the SCS as a de facto core interest. Xi rallied national sentiment at the 18<sup>th</sup> National Congress of the Communist Party of China by bringing back the “Great Rejuvenation of the Chinese Nation” platform of former CPC leader Jiang Zemin in the form of his new “Chinese Dream.”<sup>217</sup> Within the ‘Chinese Dream,’ Xi maintained adherence to peaceful development, but “In no way will the country abandon its legitimate rights and interests, nor will it give up its core national interests.”<sup>218</sup> Bonnie Glaser of the Center for Strategic and International Studies presented the argument: “Strengthening China’s control over the SCS is part of his (Xi’s) ‘China Dream’ of rejuvenation of the Chinese nation,” based on clear signaling from phrases such as “protection of maritime rights and interests,” “resolutely safeguarding territorial sovereignty,” and China should not “relinquish our legitimate rights and interests or sacrifice China’s ‘core interests’” presented at the Central Conference on Work Relating to Foreign Affairs in 2014.<sup>219</sup>

In Xi’s ‘Chinese Dream’ the military will play a central role in maintaining control of the SCS. Meng Xiangqing, deputy director for Strategic Studies at the National Defense University, stated in *China Daily* that the centerpiece of the ‘Chinese Dream’ is “rejuvenation of the Chinese nation, and a nation cannot be rejuvenated without a strong military,” a statement which is backed up by a picture published in *China Daily* showing

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<sup>216</sup> Associated Press, “China Retracts Policy on S. China Sea.”

<sup>217</sup> Jakobson, *China’s Unpredictable Maritime Security*, 7; “Background: Connotations of Chinese Dream,” *China Daily*, March 5, 2014, [http://www.chinadaily.com.cn/china/2014npcandcppcc/2014-03/05/content\\_17324203.html](http://www.chinadaily.com.cn/china/2014npcandcppcc/2014-03/05/content_17324203.html).

<sup>218</sup> Jakobson, *China’s Unpredictable Maritime Security*, 8.

<sup>219</sup> Bonnie S. Glaser, “Beijing Determined to Advance Sovereignty Claims in the South China Sea,” *The Interpreter*, December 16, 2014, <http://www.lowyinterpreter.org/post/2014/12/16/Beijing-determined-advance-sovereignty-claims-South-China-Sea.aspx>; “The Central Conference on Work Relating to Foreign Affairs was Held in Beijing,” Ministry of Foreign Affairs of the People’s Republic of China, November 29, 2014, [http://www.fmprc.gov.cn/mfa\\_eng/zxxx\\_662805/t1215680.shtml](http://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1215680.shtml).

seamen spelling out “Chinese Dream, Military Dream” on the newly commissioned aircraft carrier *Liaoning*.<sup>220</sup> These are examples of the centrality of the PLAN to Xi’s dream, and Xi further clarified the need for the Chinese military to be able to accomplish maritime operations in a three part slogan to the PLA at the 12<sup>th</sup> National People’s Congress that said: “strengthening the military under the new situation” required “building a military force of the people that obeys the party’s command, is able to fight victorious battles, and has a good style.”<sup>221</sup> Xi’s new motto was followed by the guidance: “resolutely defend the state’s sovereignty, security, and develop interests; firmly protect the security of the people’s lives and property; and struggle for realizing the dreams of building a strong nation and a strong army.”<sup>222</sup> Xi’s guidance to the military is a clear indication of the importance territoriality to protecting Chinese fisheries and hydrocarbon resources, and the break from the traditional long-term defense mobilization and defense emphasizing “full military readiness” is particularly relevant to the disputes in the SCS.<sup>223</sup>

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<sup>220</sup> Xiangqing Meng, “Chinese Dream Includes Strong PLA,” *China Daily*, October 8, 2013, [http://www.chinadaily.com.cn/opinion/2013-10/08/content\\_17012886.html](http://www.chinadaily.com.cn/opinion/2013-10/08/content_17012886.html); “*Liaoning* Carries ‘Chinese Dream’ on the Sea,” *China Daily*, November 11, 2013, [http://www.chinadaily.com.cn/china/China-Military-Watch/2013-11/21/content\\_17119775.html](http://www.chinadaily.com.cn/china/China-Military-Watch/2013-11/21/content_17119775.html); Mulvenon drew the same conclusions, see James Mulvenon, “Military Themes from the 2013 National People’s Congress,” *China Leadership Monitor*, no. 41 (2013), 4–5, <http://www.hoover.org/sites/default/files/uploads/documents/CLM41JM.pdf>.

<sup>221</sup> Mulvenon, “Military Themes from the 2013 National People’s Congress,” 3.

<sup>222</sup> *Ibid.*, 4.

<sup>223</sup> *Ibid.*, 6.



Figure 5. Chinese seamen in formation of Chinese characters reading: “Chinese Dream, Military Dream” aboard the carrier *Liaoning*<sup>224</sup>

Along with the rhetorical move towards defending sovereignty and protecting rights, the 2009 UNCLOS CLCS deadline forced China to declare its claims and set a reference point. China has expressed its claims to the UN in three *Notes Verbales*, two in 2009 and one in 2011, with the first *Note Verble* from 2009 outlined China’s basic position:

China has indisputable sovereignty over the islands in the SCS and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof (see attached map). The above position is consistently held by the Chinese government, and is widely known by the international community.<sup>225</sup>

The ‘attached map’ is a reference to the nine-dashed line map from. The second *Note Verbale* included maps and information that dealt with the East China Sea, but furthered China’s position asserting the “right to make submissions on the outer limits of the continental shelf that extends beyond 200 nautical miles in the East China Sea and in

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<sup>224</sup> China Daily, “*Liaoning* Carries ‘Chinese Dream.’”

<sup>225</sup> DOS, *Limits in the Seas*, 1.

other sea areas.”<sup>226</sup> The ‘other areas’ is typically interpreted as referring to the SCS.<sup>227</sup> The third *Note Verbale*, presented to the UN in April of 2011, repeated the 2009 *Note Verbale*; however, it included the phrases: “China’s sovereignty and related rights and jurisdiction in the SCS are supported by abundant historical and legal evidence” and the explicit “China (sic) enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil.”<sup>228</sup> This declaration has been interpreted by experts as China, for the first time, that “that the islands are entitled to a territorial sea, EEZ and continental shelf.”<sup>229</sup> Together these statements present the Chinese claim, and combined with rhetoric from Chinese leaders represents a favorable reference point because China does not occupy and control all of the islands and features in the SCS.

The first piece of evidence that displays the elite shift in interest to align with a reference point including all the territory within the nine-dashed line map is the increased importance of maritime institutions. The first evidence of increased institutional importance was the created of the DBOA in 2009, which was followed by the inclusion of an entire chapter on the maritime in the twelfth five-year plan 2011–2015.<sup>230</sup> Additionally, then leader-in-waiting, Xi’s first senior level position was as head of a newly created LSG for the Protection of Maritime Interests. While LSGs are not formalized bureaucratic institutions with operating procedures or regulatory power, Alice Miller argued that they maintain “serious bureaucratic power,” and “serve the policy making process in two ways—policy formulation and implementation.”<sup>231</sup> Miller noted that under Xi displaced the LSG on CC Politics and Law Committee, which was directed by Luo Fan and then by Zhou Yongkang under the Hu administration, with another LSG directed by Xi, the State Security Commission. These institutional maneuvers effectively organized power and gives Xi direct access to all of the organizations involved in setting

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<sup>226</sup> Swaine and Fravel, “Maritime Periphery,” 3.

<sup>227</sup> Ibid.

<sup>228</sup> DOS, *Limits in the Seas*, 1–2.

<sup>229</sup> Swaine and Fravel, “Maritime Periphery,” 4.

<sup>230</sup> Jakobson, *China’s Unpredictable Maritime Security*, 8.

<sup>231</sup> Alice Miller, “More Already on the Central Committee’s Leading Small Group,” *China Leadership Monitor*, no. 44 (Summer 2014), 43–44, <http://www.hoover.org/sites/default/files/research/docs/clm44am.pdf>.

and executing China's maritime policy. So far the results from this consolidation of power include the 2013 creation of the State Oceanic Commission that some analysts view as the body which will oversee the drafting of China's national maritime strategy and oceanic laws, the consolidation of China's civilian maritime agencies into the China Coast Guard, and Jakobson's unconfirmed account that the decision by Yang Jiechi to pass the HSD-981 plan to the maritime LSG for approval was the only reason the mission occurred—Jakobson noted senior interviewees indicated that Hainan provincial officials had lobbied aides under Hu for years without gaining approval for the oil rig mission.<sup>232</sup>

The institution changes represent an increased capacity for the CPC to respond to maritime challenges at the highest level with coordinated responses, and China has greatly increased the hard power of its civilian maritime agencies and supplemented their activities with PLAN planning and support. Beginning in 2009, Jacobson cited *Xinhuanet* reporting that dozens of ocean-going patrol ships, sourced from domestic construction or PLAN decommissioning, were transferred to the civilian maritime agencies.<sup>233</sup> These vessels are significantly larger in tonnage and number than their new counterparts in the coast guard, and Jacobson cited the State Council Information Office who reported that an additional 20 maritime police vessels began construction in 2014 that are expected to have a greater tonnage than the combined tonnage of U.S. and Japanese Coast Guards.<sup>234</sup> As mentioned earlier as an indicator of newly assertive behavior for Fravel, the PLAN has been supplementing the efforts of civilian maritime agencies dealing with foreign civilian maritime and fishing interests. An early examples of this kind of assertive behavior is the widely publicized 2011 joint PLAN, CMS, and FLEC joint exercise where the PLAN backed up CMS and FLEC vessels deployed to protect fishing vessels being harassed by another state.<sup>235</sup> During the HD-981 mission, Vietnamese media reported that multiple PLAN ships including two Type 071 LPDs and one Type 053H3 frigate were part of the flotilla, which accompanied HD-981, and this claim was bolstered by the

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<sup>232</sup> Jakobson, *China's Unpredictable Maritime Security*, 8, 11.

<sup>233</sup> *Ibid.*, 7.

<sup>234</sup> *Ibid.*

<sup>235</sup> *Ibid.*, 22.



Chinese state media reporting on June 10, 2014, that a Fuchi-class replenishment ship was on patrol in the area near HD-981.<sup>236</sup> Jacobson's interviewees confirmed the presence PLAN officers, and they "praised the professionalism of the PLAN officers."<sup>237</sup> After the HD-981 mission, the PLAN organized a drill in waters off of Vietnam that simulated a scenario were ten units from the PLAN, PLAN Air Force, PLA Air Force, China Coast Guard, and FLEC defended an oil rig from foreign fishing vessels.<sup>238</sup> These exercises have featured combat support ships, destroyers, naval helicopters, submarines, and aircraft supporting civilian law enforcement agencies. In June 2014, the PLA Daily reported that the PLAN is "actively building a military-police-civilian joint defense mechanism" and "closely coordinating with maritime forces to implement joint rights protection."<sup>239</sup>

Another increase in hard power was the commissioning of the *Liaoning* an ex-Ukrainian aircraft carrier and the development of an indigenous aircraft carrier program; but because the *Liaoning* and future carriers are in their infancy, an examination of military strategy, tactics, and their specific resources provides better evidence of the desires of Chinese elites.<sup>240</sup> White papers on national defense, which are written for the Ministry of National Defense by the PLA Academy of Military Science (AMS), illustrate the growing significance of the maritime domain after 2006.<sup>241</sup> The 2006 white paper mentioned joint patrols with Vietnam in the Gulf of Tonkin, the 2008 white paper focused on naval modernization, the 2010 white paper included a subsection on dialogue and cooperation in maritime security, and the 2012 white paper elevated the issue by

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<sup>236</sup> "China," IHS Jane's World Navies, last accessed April 15, 2015, <https://janes.ihs.com.libproxy.nps.edu/CustomPages/Janes/DisplayPage.aspx?DocType=Reference&ItemId=+++1322663&Pubabbrev=JWNA>.

<sup>237</sup> Jakobson, *China's Unpredictable Maritime Security*, 19.

<sup>238</sup> Ibid., 22.

<sup>239</sup> Ibid.

<sup>240</sup> Ronald O'Rourke, *China Naval Modernization: Implications for U.S. Navy Capabilities—Background and Issues for Congress* (CRS Report No. RL33153) (Washington, DC: Congressional Research Service, December 23, 2014), 15–17, <https://www.fas.org/sgp/crs/row/RL33153.pdf>.

<sup>241</sup> M. Taylor Fravel and Christopher P. Twomey, "Projecting Strategy: The Myth of Chinese Counter-intervention," *Washington Quarterly* 37, no. 4 (Winter 2015), 174–75, [https://twq.elliott.gwu.edu/sites/twq.elliott.gwu.edu/files/downloads/Fravel\\_Twomey.pdf](https://twq.elliott.gwu.edu/sites/twq.elliott.gwu.edu/files/downloads/Fravel_Twomey.pdf).

including an entire subsection to safeguarding maritime rights and interests.<sup>242</sup> Further exploring sources of military strategy, Christopher Twomey and Fravel presented an argument that the AMS strategic guide for 2013, *The Science of Military Strategy*, that outlined four kinds of wars China may be faced with: “1) a large-scale, high-intensity defensive war on the Chinese mainland (low probability and high risk); 2) a relatively large-scale and relatively high-intensity ‘anti-secessionist war’ over Taiwan (relatively high probability and high risk); 3) medium-and small-scale wars over disputed territories and waters (medium probability and risk); and 4) small-scale and low-intensity counter-terror, stability maintenance, and rights defense actions (no probability or risk assigned to these actions).” This section of the book concluded that “the most likely threat of war is a limited military conflict in the maritime direction”<sup>243</sup> Drilling down to the tactical level, the Twomey and Fravel cited a 2012 AMS textbook that included six types of campaigns that are typical of PLA writings: “a firepower attack campaign, an island blockade campaign, an island assault campaign, an air defense campaign, a border defense campaign, and an anti-landing campaign.”<sup>244</sup> While Twomey and Fravel noted these campaigns generally refer to Taiwan, the Indian border, or mainland defense, combining the tactical campaigns with the strategic guidance belief that conflict is most likely in the maritime—separate from a Taiwan scenario—it appears as though both strategic and tactical thinkers are increasingly preparing for a military option in island disputes. The naval modernization coincides with this evolving strategic thinking, and since 2006, China’s amphibious capability has increased with the domestic production of three Yuzhao (Type 071) amphibious ships with another under construction, the development of a 20,000 ton Type 081 amphibious ship program that provides significant upgrades for island campaign capabilities over the Type 071, and the delivery of four Ukrainian made

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<sup>242</sup> Information Office of the State Council of the People’s Republic of China. “China’s National Defense in 2006.”; Information Office of the State Council of the People’s Republic of China, “China’s National Defense in 2008.”; Information Office of the State Council of the People’s Republic of China, “China’s National Defense in 2010.”; Information Office of the State Council of the People’s Republic of China, “The Diversified Employment of China’s Armed Forces.”

<sup>243</sup> Fravel and Twomey, “Projecting Strategy,” 174.

<sup>244</sup> Ibid.

air-cushioned landing crafts (LCACs) with the payload capacity of 150 tons.<sup>245</sup> In 2015, the PLA Amphibious Mechanized Infantry Division was increased from 30,000 to 60,000 troops making up four divisions each consisting of 300 armored and amphibious transport vehicles that complement the 20,000 troop PLA Marine Corps.<sup>246</sup> While the force size has grown larger, O'Rourke referred to a U.S. Department of Defense report that said the PLA could not invade Taiwan, and currently only has the sea lift capability to launch an invasion of a small-sized island like Taiwanese controlled Taiping Island (*Itu Aba*) in the Spratly Islands.<sup>247</sup>

The geopolitical context of the ICJ arbitration ruling between Singapore and Malaysia created the conditions for the 2009 UNCLOS CLCS deadline to threaten the international legal status of China's claims to the territory of the SCS encompassed by the nine-dashed line. China responded to this systemic pressure by adopting a reference point based on their historic claims to the SCS, and they have signaled this reference point by placing an increased emphasis on maritime territoriality. An investigation comparing Chinese behavior before and after 2006 shows a variation in behavior beginning at the top with the consolidation of power over the maritime by Xi, a reinterpretation of Chinese foreign policy, and changes to military doctrine. The variations are evident in lower echelons of the state by changes to military strategy and tactics, maritime law enforcement capabilities, and the integration of PLA forces into the sovereignty disputes.

### C. APPLIED HYPOTHESIS TWO

China has maintained consistent claims since Zhou Enlai's 1951 declaration, so Chinese leaders should reject any renormalization—readjustment to a new less desirable reference point—that provides a territoriality outcome outside of the anchored reference point.

After maintaining claims based on Zhou Enlai's declaration in 1951, Chinese leaders have anchored and rejected any renormalization that relinquishes territory in the

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<sup>245</sup> O'Rourke, *China Naval Modernization*, 34–35.

<sup>246</sup> Franz-Stefan Gady, "China Just Doubled the Size of its Amphibious Mechanized Infantry Divisions," *The Diplomat*, January 9, 2015, <http://thediplomat.com/2015/01/china-just-doubled-the-size-of-its-amphibious-mechanized-infantry-divisions/>.

<sup>247</sup> O'Rourke, *China Naval Modernization*, 34.

SCS. The 2009 UNCLOS CLCS deadline forced China to formalize their claims, and leaders anchored on the area encompassed by the nine-dashed line as an anchor. Prior to anchoring on this reference point, China displayed openness and willingness to negotiate—or at least continue Fravel’s strategy of delay. After anchoring, objections to arbitrations and the continued stalling on the COC treaty are examples of China’s rejection of renormalization to any potential that provides an outcome outside of its anchored reference point.

While China has maintained a longstanding claim over the SCS, the demilitarized period following the Mischief Reef incident saw an increase in the strength of China’s position that led to cooperation when they maintained control over negotiations. The unopposed 1998 and 1999 seizures of features in the Spratly Islands by Malaysia and Vietnam and 2002 DOC agreement are examples of China’s perceived strong position in the SCS mentioned earlier in Chapter I. Another example is the 2000 Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin.<sup>248</sup> The Boundary Agreement, based on the 1982 UNCLOS, was ratified by both Vietnam and China and came into effect in 2004. The treaty has a history based on Chinese concessions, which includes the removal of the dashed lines from the ROC’s SCS map and Mao’s decision in 1957 to transfer control of White Dragon Tail Island to North Vietnam mentioned earlier, but illustrates the strength of China’s position in 2000. Article 2 of the agreement sets 21 geographic positions that delineate a maritime boundary; however, the agreement that China ratified does not include a straight baseline from which territorial seas, continental shelves, or EEZs can be determined, and they were able to negotiate a 46.77 percent share of delineation despite the presence of White Dragon Tail Island.<sup>249</sup> White Dragon Tail Island is located in the middle of the Gulf of Tonkin, and under UNCLOS should have been granted a significantly larger representation than the 25 percent effect it was granted—this reduced White Dragon Tail Island to a 12 NM territorial sea and three NM EEZ. Despite not achieving its demand of equal division, the Chinese government

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<sup>248</sup> Keyuan Zou, “The Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin,” *Ocean Development and International Law* 36, no. 1 (2005), 19, doi: 10.1080/00908320590904920.

<sup>249</sup> *Ibid.*, 15.

accepted the terms of the treaty as a “result of equality.”<sup>250</sup> These events confirm Fravel’s earlier findings, and the negotiations reject the notion that there was an anchored reference point prior to the 2004 ratification of the Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin.

After 2009 China’s geopolitical position in the SCS was weakened by threats to its claims, and its behavior reflects maintaining an anchor around a preexisting reference point and refusing to participate in any negotiations that could limit their claims (and serve as a renormalization of that reference point). In 2013, the Philippines presented the UN a *Note Verbale* requesting international arbitration at the UN Permanent Court of Arbitration in order to resolve its maritime disputes with China.<sup>251</sup> The request for dispute resolution was rejected by China, and the Chinese foreign ministry again expressed the Chinese view in a point paper: “China has indisputable sovereignty over the SCS Islands (the Dongsha Islands, the Xisha Islands, the Zhongsha Islands and the Nansha Islands) and the adjacent waters.”<sup>252</sup> The Philippines proceeded and brought the case *The Republic of the Philippines v. The People’s Republic of China* to the UN Permanent Court of Arbitration and set a precedent for other states with SCS territorial disputes.<sup>253</sup> China responded with a January 22, 2013 *Note Verbale* to the UN that contained a position paper which rejected the Philippine’s claim as a unilateral move despite the bilateral instruments between China and the Philippines specifically noting “the Declaration on the Conduct of Parties in the SCS (“DOC”), signed by both China and the Philippines, explicitly states that territorial and jurisdictional disputes shall be resolved peacefully by sovereign States directly concerned through friendly consultations

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<sup>250</sup> Zou, “Sino-Vietnamese Agreement on Maritime Boundary,” 15.

<sup>251</sup> “SFA Statement on the UNCLOS Arbitral Proceedings against China,” Republic of the Philippines, Department of Foreign Affairs, January 22, 2013, <http://www.dfa.gov.ph/index.php/2013-06-27-21-50-36/unclos>.

<sup>252</sup> “Chinese Government’s Position Paper on Matter of Jurisdiction in South China Sea Arbitration Initiated by Philippines,” *Xinhua*, December 7, 2014, <http://en.people.cn/n/2014/1207/c90883-8819177.html>.

<sup>253</sup> “The Republic of the Philippines v. The People’s Republic of China,” Permanent Court of Arbitration, last accessed April 23, 2015, [http://www.pca-cpa.org/showpage.asp?pag\\_id=1529](http://www.pca-cpa.org/showpage.asp?pag_id=1529).

and negotiations.”<sup>254</sup> China’s basis for rejecting UN arbitration rests on the argument that UNCLOS does not apply to territorial sovereignty disputes—despite previously negotiating a maritime territorial delineation based on UNCLOS with Vietnam in the Gulf of Tonkin—and that Articles 280 and 281 from the DOC provide additional legal protection from UN arbitration because they call for “no recourse to arbitration or other compulsory procedures.”<sup>255</sup> The rationale for rejecting the Philippine desire for arbitration is a clear example of a change from China’s position in 2004 and its subsequent anchoring and refusal to renormalize.

Other attempts at multilateral territorial dispute resolution, such as the implementation of the DOC or creation of a COC, have not been supported by China. While China signed the 2002 ASEAN led DOC for the SCS, its change in position made officials routinely stall negotiations of an actual COC that would accomplish the DOC’s objectives because they would create an arbitration mechanism and limit Chinese displays of sovereignty like military exercises and patrols in disputed waters.<sup>256</sup> Chinese Foreign Minister Wang Yi voiced the opinion of China on the COC in August of 2013, and stated:

First, reasonable expectations. Some countries are talking about “quick fix,” like reaching consensus on COC within one day. It is an attitude neither realistic nor serious. COC involves multilateral interests from different parties, and its formulation is a process of sophisticated and complex coordination.

Second, consensus through negotiations. We should refer to the experience of reaching DOC to move forward COC. To seek consensus as broadly as possible and to keep the comfort of all parties in mind. Wills of individual country or of a few countries should not be imposed on other countries, as an old Chinese saying, nothing forcibly done is going to be agreeable.

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<sup>254</sup> “Chinese Ministry of Foreign Affairs: Position Paper on the Matter of Jurisdiction in the South China Sea Arbitration,” Council on Foreign Relations, December 7, 2014, <http://www.cfr.org/territorial-disputes/chinese-ministry-foreign-affairs-position-paper-matter-jurisdiction-south-china-sea-arbitration/p33978>.

<sup>255</sup> Ibid.

<sup>256</sup> Shannon Tiezzi, “Why China Isn’t Interested in a South China Sea Code of Conduct,” *The Diplomat*, February 26, 2014, <http://thediplomat.com/2014/02/why-china-isnt-interested-in-a-south-china-sea-code-of-conduct/>.

Third, elimination of interference. China and ASEAN countries tried several times to discuss on COC before, but got stuck due to some interferences. All parties concerned should do more to help moving forward the process of COC, and create the necessary conditions and atmosphere, not going the opposite way.

Fourth, step-by-step approach. The formulation of COC is stipulated in DOC. COC is not to replace DOC, much less to ignore DOC and go its own way. The top priority now is to continue to implement DOC, especially promoting maritime cooperation. In this process, we should formulate the road map for COC through consultations, and push it forward in a step-by-step approach.<sup>257</sup>

Wang's apparently moderate comments bring up some notable points that warrant rebuttal and contextualization. First, although there is not a 'quick fix' solution, negotiations on the COC began when the Philippines lobbied for a COC after the Mischief Reef incident in 1995. ASEAN formed a consensus in 1999, and negotiations between ASEAN and China have been ongoing from that point. Second, China's reference to the 'elimination of interference,' is expressing their desire for the United States, and its lobbying of ASEAN states, to pursue an agenda based on completing a COC, to remain out of the consensus.<sup>258</sup> Finally, Wang acknowledged that the DOC has been ignored by all disputants. Carlyle Thayer points to these comments, and argued that China is likely to test ASEAN and may, "manufacture a pretext at any moment to suspend discussions due to what it considers to be the unacceptable behavior of one of the claimants." For Thayer, a formalized COC agreement with institutionalized dispute resolution mechanisms is unlikely because negotiations are "likely to be protracted if not interminable." Despite the recent agreement to move forward with COC negotiations, Wang's comments point towards a strategy of continued stalling that is illustrative of China's reluctance towards anything that could force the renormalization of its anchor point.<sup>259</sup>

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<sup>257</sup> "Foreign Minister Wang Yi on Process of 'Code of Conduct in the South China Sea,'" Ministry of Foreign Affairs of the People's Republic of China, August 5, 2013, [http://www.fmprc.gov.cn/mfa\\_eng/wjb\\_663304/wjbz\\_663308/activities\\_663312/t1064869.shtml](http://www.fmprc.gov.cn/mfa_eng/wjb_663304/wjbz_663308/activities_663312/t1064869.shtml).

<sup>258</sup> Tiezzi, "Why China Isn't Interested."

<sup>259</sup> Ibid.

The evidence presented in this section shows there was a period where China was comfortable enough with its position in the SCS that it would overlook the occupation of its claims by other disputants and even negotiate maritime boundaries, but that position was supplanted in 2009 and China reacted by anchoring on its long term claim—the nine-dashed line. After 2009, there is little evidence to suggest that China will formally participate in dispute resolution mechanisms that would force renormalization, and it is apparent that China will reject any multilateral or bilateral agreements that limit its territoriality or ability to exercise military power in the SCS.

#### **D. APPLIED HYPOTHESIS THREE**

In the anticipation of losses, Chinese leaders should intervene against challenges in the SCS, and those interventions should include behaviors that are risk acceptant and outside of the standards of behavior and inter-state interaction set forth in international agreements.

In reaction to perceived challenges from the Philippines, Vietnam, and Malaysia over their disputes in the SCS, China began series of escalation of disputes to signal their power in the SCS. This section will look at fishing and hydrocarbon related incidents that are deviations from behavior observed prior to the 2006, the in the geopolitical position of China, and meet the threshold for risk acceptant behavior—new and unilateral behavior or words that are sanctioned by the government, that are confrontational, destabilizing, or threatening, and whose goal is to change the status quo. This section will list a sequence of behavior, highlight the reasons they are risk acceptant behavior, and compare them against the standards of inter-state interaction set forth in the DOC.

This section will test risk acceptant behavior against the 2002 DOC because each of the disputant states agreed to the DOC, and this agreement reaffirmed commitment to other guiding international treaties—the Charter of the UN, the 1982 UNCLOS, the Treaty of Amity and Cooperation in Southeast Asia, and the Five Principles of Peaceful Coexistence—which seek to provide rules, norms, and standards for state to state



interactions.<sup>260</sup> Article Five specifically presents a measure from which risk acceptant behavior can be measured:

The Parties undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.<sup>261</sup>

Actions that violate the spirit of Article Five will be viewed as violating international norms for state to state interactions.

China's risk acceptant behavior highlighted by fishing related actions:

2005 – Truong Ngoc Nhi, vice chairman of the Quang Ngai People's Committee, said that 63 fishing boat and 725 fishermen were detained between 2005 and 2010.<sup>262</sup> This trend appears to have begun again with the possibility of militarization in the wake of the HD-981 deployment.<sup>263</sup> In every case Vietnam argued their fishermen were in sovereign waters, while China contends that they were in Chinese waters.

2009 – China expanded the duration of its unilateral fishing ban, which had been in place since 1999, from half of month to three months. The MOA claimed the prevention was to protect fishery resources, but the ban coincided with increases in SSRFAB enforcement.<sup>264</sup>

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<sup>260</sup> "Declaration on the Conduct of Parties in the South China Sea," Association of Southeast Asian Nations, November 4, 2002, <http://www.asean.org/asean/external-relations/china/item/declaration-on-the-conduct-of-parties-in-the-south-china-sea>.

<sup>261</sup> Ibid.

<sup>262</sup> "Vietnam Demands Unconditional Release of Fishermen Held by China," *Thanh Nien News*, October 8, 2010, <http://www.thanhniennews.com/politics/vietnam-demands-unconditional-release-of-fishermen-held-by-china-14809.html>.

<sup>263</sup> Tra Mi, "Vietnam Association Demands Release of Boat, Crew from China," *Voice of America*, July 7, 2014, <http://www.voanews.com/content/vietnam-association-demands-release-of-boat-crew-from-china/1952658.html>; Amrutha Gayathri, "Vietnam Accuses China of Firing on Fishing Boat in South China Sea," *International Business Times*, March 26, 2013, <http://www.ibtimes.com/vietnam-accuses-china-firing-fishing-boat-south-china-sea-1150989>.

<sup>264</sup> Fravel, "Maritime Security," 38; Fravel cited Nongyebu yuyeju ed. 2010 [2010: China Fisheries Yearbook]; Chanda Beckman, Xinping Wu, and Angie Han, *Fishery Products Annual Report: People's Republic of China* (N.p.: U.S. Department of Agriculture, December 22, 2009), [http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Fishery%20Products%20Annual%20Report\\_Beijing\\_China%20-%20Peoples%20Republic%20of\\_12-22-2009.pdf](http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Fishery%20Products%20Annual%20Report_Beijing_China%20-%20Peoples%20Republic%20of_12-22-2009.pdf).

2012 and 2013 – PLAN, the CMS, and FLEC conduct publicized joint exercises defending Chinese fishing vessels from harassment.<sup>265</sup>

2012 – China and the Philippines were involved in a four-week standoff over fishing at the Scarborough Shoal/Huangyan Island. Chinese fishery vessels blocked Philippine Navy vessels from stopping Chinese fisherman.<sup>266</sup>

2013 – Chinese foreign ministry spokesman Hong Lei admitted PLAN vessels had taken “legitimate and reasonable” actions against Vietnamese fishing vessels in disputed waters; but Vietnam contends the vessels were in Vietnamese waters, and the actions included firing flares into the fishing vessel which subsequently caught fire.<sup>267</sup>

2013 – Effective January 1, 2014, China issued a new fishing regulations that required states that seek to fish or conduct surveys in water claimed by China must receive approval “from relevant departments of the State Council.” This represents the implementation of China’s 2004 fisheries law, and applies to “sea areas administered by Hainan” that constitutes two million square kilometers of the SCS.<sup>268</sup>

While fishing issues are not uncommon between disputant states, the Chinese behavior has been risk acceptant. Fravel acknowledged that a shift towards using PLAN assets instead of law enforcement agencies would indicate “assertiveness,” and fit within this thesis’ definition of risky behavior, because it is outside of the pattern China has used to enforce its maritime claims and incompatible with the DOC.<sup>269</sup> The new and unilateral behaviors that are outside of the Chinese pattern and incompatible with the DOC include: the apprehension, imprisonment, and confiscation of Vietnamese and Philippine fishermen; the extension of the fishing ban in duration and the inclusion of foreign

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<sup>265</sup> Jakobson referred to domestic Chinese news sources to confirm publicity of the exercises: 刘轶瑶 [Yiyao Liu], “中国海军与海监, 渔政在东海举行联合演习” [Joint Drill in the East China Sea, by Chinese Navy, China Maritime Surveillance and the Fisheries Law Enforcement Command], 凤凰网[Phoenix News Online] October 19, 2012, [http://news.ifeng.com/mainland/special/diaoyudaozhengduan/content-3/detail\\_2012\\_10/19/18360716\\_0.shtml](http://news.ifeng.com/mainland/special/diaoyudaozhengduan/content-3/detail_2012_10/19/18360716_0.shtml); “东莞在全省率先开展军警民海上联防演练” [Dongguan Leads the Whole Province Developing Joint Military, Police and Civilian Maritime Drills], 新浪广东 [Sina Guangdong], October 30, 2013, <http://gd.sina.com.cn/news/m/2013-10-30/183350216.html>.

<sup>266</sup> Stan Grant and Paul Armstrong, “Tensions over Disputed Island Appear to Ease,” *CNN*, May 10, 2012, <http://www.cnn.com/2012/05/10/world/asia/china-philippines-dispute/>.

<sup>267</sup> Associated Press, “China Denies Starting Fire on Vietnamese Fishing Boat,” *The Guardian*, March 27, 2013, <http://www.theguardian.com/world/2013/mar/27/china-denies-fire-vietnamese-boat>.

<sup>268</sup> Fravel, “Hainan’s New Fishing Rules.”; Thayer, “China’s New Fishing Regulations.”

<sup>269</sup> Fravel, “Maritime Security,” 44.

fisherman in disputed waters; and the integration of PLAN assets with civilian agencies dealing with foreign civilians.<sup>270</sup> Thayer argued the escalation of Chinese tactics, especially the new fishing regulations, are “aimed at extending the legal basis for China’s claim” are a “challenge to sovereignty” and represent a threat to stability in the SCS.<sup>271</sup> Fravel argued Vietnamese and Philippine responses also routinely violated Article Five of the DOC, but it should be noted that they appeared to increase their response—to include apprehension and arming civilian maritime agencies—to Chinese escalation of fishing conflicts.<sup>272</sup> Comments from the Philippine Department of Foreign Affairs, “regulations escalate tensions, unnecessarily complicates the situation in the South China Sea and threatens the peace and stability of the region,” and Vietnam, “Vietnam demands that China abolish the above said erroneous acts, and practically contribute to the maintenance of peace and stability in the region,” after the imposition of the fishing ban present public criticism that points towards escalation.<sup>273</sup>

China’s risk acceptant behavior highlighted by hydrocarbon exploration related actions:

2006 – According to the SOA, MSF began law enforcement deployments to “protect rights.”<sup>274</sup>

2009 – Before a U.S. Senate subcommittee on foreign relations, deputy assistant secretary of state testified: “Starting in the summer of 2007, China told a number of U.S. and foreign oil and gas firms to stop

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<sup>270</sup> Fravel, “Maritime Security,” 38.

<sup>271</sup> Thayer, “China’s New Fishing Regulations.”

<sup>272</sup> Fravel, “Maritime Security,” 38; “Philippines Seizes Chinese Boat in Dispute,” *Al Jazeera*, May 7, 2014, <http://www.aljazeera.com/news/asia-pacific/2014/05/philippines-seizes-chinese-boat-dispute-20145710543690943.html>; Tra Mi, “Vietnam to Arm Fishery Surveillance Ships after Standoff with China,” *Voice of America*, August 1, 2014, <http://www.voanews.com/content/vietnam-to-arm-fishery-surveillance-ships-after-standoff-with-china/1969985.html>.

<sup>273</sup> Thayer, “China’s New Fishing Regulations.”

<sup>274</sup> Fravel, “Maritime Security,” 38, cited “Jianding buyi de diaowei haiyang quanyi [Resolutely Defend Maritime Rights and Interests],” Guojia Haiyang Ju [People’s Republic of China, State Oceanic Administration], July 26, 2011, <http://www.soa.gov.cn/soa/management/supervise/webinfo/2011/07/1311482429829083.htm>.

exploration work with Vietnamese partners in the South China Sea or face unspecified consequences in their business dealings with China.”<sup>275</sup>

2011 – Two Chinese MSF vessels “expelled” a Singapore-register French-owned survey ship operating in the Reed Bank off of Palawan Island. The Philippines reported the MSF vessels shadowed the survey vessel and threatened to ram it.<sup>276</sup>

2011 – Three Chinese MSF vessels conducted threatening maneuvers and surrounded the PetroVietnam survey ship Binh Minh 02. One of the MSF ship cut across the stern of the Binh Minh 02 and cut its towed array survey cable.<sup>277</sup>

2011 – Chinese fishing vessels and SSRFAB vessels surrounded the Norwegian Viking II, and one Chinese fishing vessel became entangled with its “special cable-slashing device” and the sonar equipment towed. Viking II was surveying under a contract between Talisman Energy, a Canadian firm, and Vietnam.<sup>278</sup>

2012 – Two Chinese MSF vessels cut the cable of the PetroVietnam survey ship Binh Minh 02 while it was conducting a seismic survey 43 NM southeast of Con Co Island which is 16 NM off of Vietnam’s Quang Tri province (mainland).<sup>279</sup>

2012 – The new legislature representing the Spratlys, the Paracels the Macclesfield Bank, and the SCS was elected, and the Central Military Commission approved the deployment of a garrison of soldiers to be stationed at Woody Island for their protection.<sup>280</sup>

2014 – Chinese oil rig HD-981 drilled exploratory wells within the disputed EEZ of Vietnam. The China National Petroleum Corporation’s

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<sup>275</sup> Jason Folkmanis, “China Warns Some Oil Companies on Work with Vietnam, U.S. Says,” *Bloomberg*, July 16, 2009, <http://www.bloomberg.com/apps/news?pid=newsarchive&sid=ak.lQfnkDStU>.

<sup>276</sup> Fravel, “Maritime Security,” 39; “Philippines Halt Tests after China Patrol Challenge,” *BBC News*, March 8, 2011, <http://www.bbc.com/news/world-asia-pacific-12672889>.

<sup>277</sup> Fravel, “Maritime Security,” 39; “Vietnam Accuses China in Seas Dispute,” *BBC News*, May 30, 2011, <http://www.bbc.com/news/world-asia-pacific-13592508>.

<sup>278</sup> Fravel, “Maritime Security,” 39; “Chinese Ships Cause Disturbance in Vietnam’s Waters Again,” *Thanh Nien News*, June 10, 2011, <http://www.thanhniennews.com/politics/chinese-ships-cause-disturbance-in-vietnams-waters-again-11921.html>.

<sup>279</sup> Jeremy Page, “Vietnam Accuses Chinese Ships,” *Wall Street Journal*, December 3, 2012, <http://www.wsj.com/articles/SB10001424127887323717004578157033857113510>.

<sup>280</sup> Jane Perlez, “China Sends Troops to Disputed Islands,” *New York Times*, July 23, 2012, [http://www.nytimes.com/2012/07/24/world/asia/china-sends-troops-to-disputed-islands.html?\\_r=1&adxnnl=1&adxnnlx=1419091219-hu2mk8UnXLZxDB5nmwYd7A](http://www.nytimes.com/2012/07/24/world/asia/china-sends-troops-to-disputed-islands.html?_r=1&adxnnl=1&adxnnlx=1419091219-hu2mk8UnXLZxDB5nmwYd7A).

project Zhongjiannan was met with protests in Vietnam and interactions between Chinese and Vietnamese coast guard, fishery, and fishing vessels.<sup>281</sup> These interactions included the Chinese fishing boat 11209 colliding with Vietnamese fishing boat DNA 90152 causing it to sink.<sup>282</sup>

2014 – PLAN organized a drill of ten units from PLA Naval Air Force, FLEC, PLA Air Force, China Coast Guard, and civilian maritime agencies in waters close to Vietnam that simulated a scenario of an oil rig surrounded and threatened by fishing vessels.<sup>283</sup>

The disputes over hydrocarbon extraction have escalated in the SCS. The warnings from 2007 onwards were a signal to multinational corporations of Chinese intentions, and the severing of towed survey cables was the result of the disregard for those signals. Fravel noted that severing cables is a new and unilateral expression of sovereignty with “no similar incidents were reported in previous years,” and this trend of actions fits within risk acceptant behavior and is incompatible with the DOC.<sup>284</sup> The response of a Chinese spokesperson, “The law enforcement activities by Chinese maritime surveillance ships against Vietnam’s illegally operating ships are completely justified,” confirmed that the events were government sanctioned and imply that cable cutting is an act to deter future exploration.<sup>285</sup> The deployment of HD-981, the sinking of a Vietnamese ship objecting to HD-981, and the presence of PLAN assets appear to be another level of Chinese escalation. The inclusion of the PLAN into maritime interactions between civilian agencies, as was mentioned earlier, is another new risk acceptant behavior that had not be witnessed prior to HD-981. The drill combining multiple PLA units with civilian agencies in support of protecting an oil rig is another example of Chinese signaling their intentions. By incorporating the PLAN, cutting cables, and threatening civilian multinational corporations, China shows a clear divergence from its hydrocarbon concerns prior to 2006, and its actions after have been both risk acceptant and against the spirit of the DOC.

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<sup>281</sup> Thayer, “4 Reasons China Removed Oil Rig HYSY-981.”

<sup>282</sup> Jane Perlez, “Vietnamese Vessel Sinks in Clash Near Oil Rig,” *New York Times*, May 26, 2014, <http://www.nytimes.com/2014/05/27/world/asia/vietnam-boat-sinks-in-clash-near-oil-rig.html>.

<sup>283</sup> Jakobson, *China’s Unpredictable Maritime Security*, 22.

<sup>284</sup> Fravel, “Maritime Security,” 39.

<sup>285</sup> Ibid.

The risk acceptant behavior detailed in this section represents only a few of the risk acceptant behaviors of China, which regularly complicates and escalates situations that could result in a loss of power or standing from territorial adversaries, the US, or the UN. While no conflict has broken out since the taking of the Paracel Islands from Vietnam, Chinese behavior related to territorial claims has deviated towards militarization and away from self-restraint or constructive objections as set forth in Article Five of the DOC. The deviation towards militarization is interesting because militarized interactions with the U.S. regarding surveying and military deployments remained consistent through the entire period—SCS incidents span the 1990s until the present and include *USNS Bowditch*, the U.S. Navy EP-3, *USNS Impeccable*, and the recent *USS Cowpens* incident. Militarization of the SCS territorial disputes may be a signal that the period of risk aversion has ended, and further illustrates China’s inability to renormalize.

#### **E. APPLIED HYPOTHESIS FOUR**

Chinese behavior should show reluctance from disengaging from conflicts or risky behavior in the periphery, despite diminishing returns.

As there are no ongoing conflicts in the SCS, hypothesis four is difficult to prove or disprove at this time. The continuation of risk acceptant behavior that leads to conflict, and the continuation of that conflict while facing diminishing returns would confirm hypothesis four. An analysis of the events surrounding the deployment of HD-981 provides a case study illustrating that China was willing to act in a risk acceptant manner during a crisis in the SCS, and it would not disengage from its strategy despite the crisis that developed with Vietnam. This section will list the events that occurred during HD-981’s deployment and subsequent crisis, present risk acceptant behavior, and analyze China’s reluctance to de-escalate the crisis.<sup>286</sup>

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<sup>286</sup> Timeline events sourced from CSIS reports: Robert Sutter and Chin-hao Huang, “China-Southeast Asia Relations: China Advances, More Opposition in South China Sea,” *Comparative Connections* 16, no. 2 (September 2014), 6–9, [http://csis.org/files/publication/1402qchina\\_seasia.pdf](http://csis.org/files/publication/1402qchina_seasia.pdf); Robert Sutter and Chin-hao Huang, “Beijing Sets Positive Agenda, Plays down Disputes,” *Comparative Connections* 16, no. 3 (January 2015), 6–9, [http://csis.org/files/publication/1403qchina\\_seasia.pdf](http://csis.org/files/publication/1403qchina_seasia.pdf).

May 2, 2014 – China National Offshore Oil Corporation (CNOOC) deploys a deep water drilling rig, the HD-981, in disputed waters near the Paracel Islands in the SCS.

May 4, 2014 – China's Maritime Safety Administration announces that all ships are prohibited from entering a 1.6 km radius (subsequently expanded to five km) surrounding an oil drilling area near the Paracel Islands until operations end.

May 7, 2014 – Vietnam releases video showing Chinese ships repeatedly ramming and using water cannons against Hanoi's patrol vessels in the area where Beijing has placed an oil rig.

June 4, 2014 – Vietnam releases video footage showing a large Chinese ship chasing and ramming one of its fishing boats, which subsequently sank.

June 9, 2014 – Wang Min, China's deputy permanent representative to the UN, submits a position paper to UN General Secretary Ban Ki-moon alleging that Vietnam "illegally and forcefully disrupted the Chinese operation" of its oil rig in the SCS.

June 11, 2014 – Vietnam's mission to the UN submits a position paper for circulation to the General Assembly demanding that China withdraw its oil rig from the area in the Paracel Islands, its escort vessels from Vietnam's maritime zones, and to stop "all activities that are interfering with maritime safety and security, and affecting regional peace and security."

June 18, 2014 – Chinese State Councilor Yang Jiechi visits Vietnam and meets Prime Minister Nguyen Tan Dung and Foreign Minister Pham Binh Minh in Hanoi to exchange views on bilateral relations and ongoing maritime tensions.

July 17, 2014 – China removes its offshore oil rig from contested waters near the Paracel Islands, a month before schedule.

Aug. 11, 2014 – Following the ASEAN Regional Forum, Southeast Asian foreign ministers issue a joint statement expressing serious concerns over rising tensions in the SCS and call for ASEAN to intensify consultations with China and have substantive discussions for the conclusion of a legally binding code of conduct in the SCS.

Aug. 18, 2014 – Philippine officials publicly warn against Chinese ships doing oil exploration in the energy-rich Reed Bank.

Aug. 27, 2014 – Sino-Vietnamese talks in Beijing reach an agreement to avoid acts that would worsen maritime disputes and to support overall peace and stability in the SCS.

Dec. 7, 2014 – Chinese Ministry of Foreign Affairs releases a position paper in response to the Philippine’s decision in January to file a case with the UN Permanent Court of Arbitration disputing Chinese claims in the SCS. The Chinese government maintains its objection to the ongoing arbitral proceedings.

Dec. 11, 2014 – Vietnam submits an official statement to the UN Permanent Court of Arbitration as part of its dispute with China in the SCS. The statement asks the international court to give “due regard” to Hanoi’s legal rights as the court reviews a separate, impending case filed by the Philippines and rejects China’s “nine-dash line” demarcation of the SCS.

The background to HD-981’s deployment appears to be a reaction to the 2013 the Philippine case, “The Republic of the Philippines v. The People’s Republic of China,” brought to the UN Permanent Court of Arbitration.<sup>287</sup> China’s initial response to the Philippine arbitration request was a January, 22 2013, *Note Verbale* to the UN that contained a position paper that rejected the Philippine’s claim as a unilateral move, noting the bilateral instruments between China and the Philippines DOC signed by both China and the Philippines, “explicitly states that territorial and jurisdictional disputes shall be resolved peacefully by sovereign States directly concerned through friendly consultations and negotiations.”<sup>288</sup> China’s basis for rejecting UN arbitration rests on the argument that UNCLOS does not apply to territorial sovereignty disputes—despite using it as a basis for its 2000 Sino-Vietnamese Agreement on Maritime Boundary Delimitation in the Gulf of Tonkin—and that Articles 280 and 281 from the DOC provide additional legal protection from UN arbitration—because they call for “no recourse to arbitration or other compulsory procedures.”<sup>289</sup> As discussed in an earlier section, Hainan provincial leaders had previously lobbied the Hu administration state councilor who heads of Foreign Affairs Office Dai Binggui for an oil exploration mission, but the mission only

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<sup>287</sup> Permanent Court of Arbitration, “Philippines v. China.”

<sup>288</sup> Council on Foreign Relations, “Position Paper on the Matter of Jurisdiction.”

<sup>289</sup> Ibid.



reached CPC leadership after Yang Jiechi replaced Dai and passed the HSD-981 plan to Xi and the maritime LSG after the 12<sup>th</sup> NPC in March 2013.<sup>290</sup> In the context of the Philippine challenge to China's territorial reference point of the area of the SCS, China is facing potential losses and should act in a risk acceptant manner. Fravel noted a similar pattern when investigating the cable cutting incidents, he observed that the incidents of cable cutting "incidents occurred after survey activity by other claimants increased."<sup>291</sup>

HD-981 was deployed to 15°29'58" north latitude and 111°12'06" east longitude on May 2, 2014 within the claimed EEZ of Vietnam illustrated in Figure 5, and the purpose of this deployment was to exercise Chinese territorial claims.<sup>292</sup>

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<sup>290</sup> Jakobson, *China's Unpredictable Maritime Security*, 14; Chris Buckley, "China's New President Nod to Public Concerns, but Defends Power at Top," *New York Times*, March 14, 2013, [http://www.nytimes.com/2013/03/15/world/asia/chinas-new-leader-xi-jinping-takes-full-power.html?\\_r=0](http://www.nytimes.com/2013/03/15/world/asia/chinas-new-leader-xi-jinping-takes-full-power.html?_r=0).

<sup>291</sup> Fravel, "Maritime Security," 39.

<sup>292</sup> Ernest Z. Bower and Gregory B. Poling, "China-Vietnam Tensions High Over Drilling Rig in Disputed Waters," Center For Strategic and International Studies, May 7, 2014, <http://csis.org/publication/critical-questions-china-vietnam-tensions-high-over-drilling-rig-disputed-waters>.

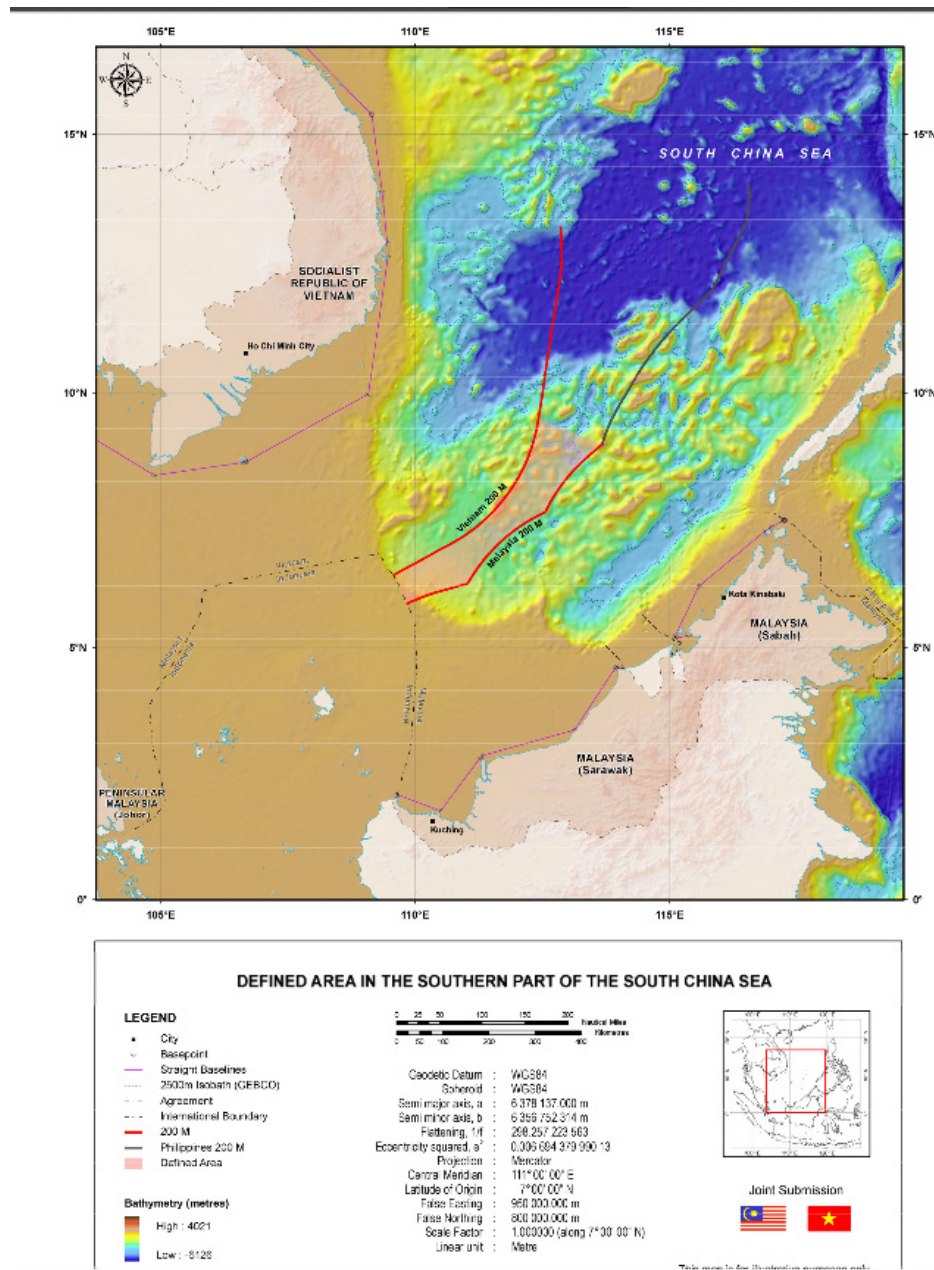


Figure 6. Map of Vietnam and Malaysia Baseline Claims (2009)<sup>293</sup>

Figure 7 illustrates location of HD-981 and the maximum potential continental shelf of the Paracel Islands under UNCLOS. HD-981's position inside of a potential Chinese occupied Paracel Islands generated EEZ would assume the islands received

<sup>293</sup> "Figure 1 Defined Area in the Southern Part of the South China Sea," map, Malaysia and The Socialist Republic of Vietnam, *Joint Submission*, 5.

preference over the EEZ of the Vietnamese coast which would be inconsistent with international law. While HD-981 may be within an EEZ of Triton Island, it is unclear whether this EEZ would extend to HD-981's position because the countering claims have not been settled.

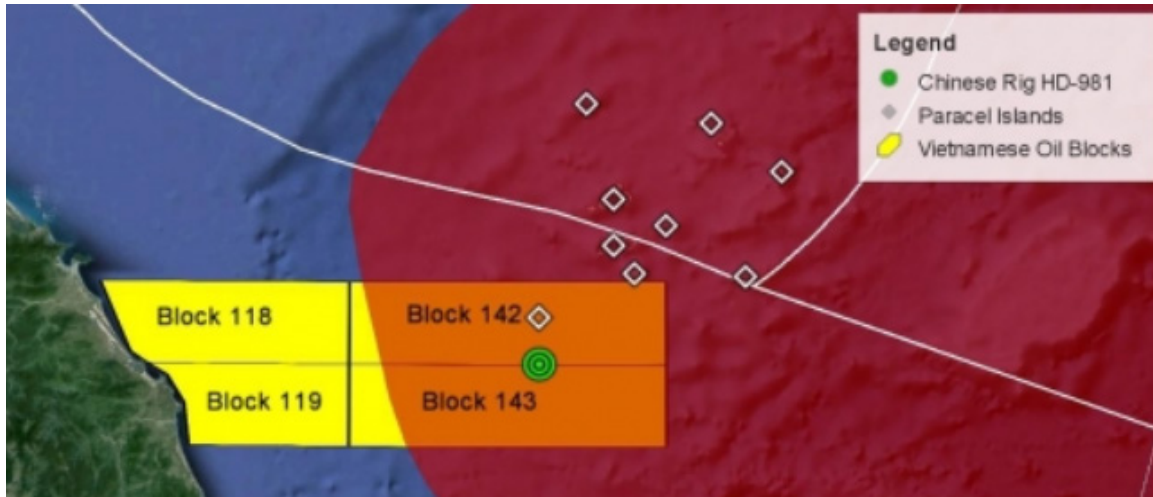


Figure 7. Location of HD-981 with red area indicating the maximum EEZ of the Paracel Islands

The first associated example of risk acceptant behavior from the deployment of HD-981 was the engagement of Vietnamese fishing and patrol vessels and the eventual sinking of a Vietnamese vessel.<sup>294</sup> Vietnamese video evidence illustrates aggressive actions that ultimately led to the sinking can viewed as a violation of the 1972 Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) Convention known as the “Rules of the Road” that is a binding treaty signed by both China and Vietnam and applies to “all vessels upon the high seas and in all waters connected therewith navigable by seagoing vessels.”<sup>295</sup> Aggressive maneuvers by Chinese and Vietnamese vessels also violated the DOC pledge by all states to “exercise self-restraint in the conduct of activities that would complicate or escalate

<sup>294</sup> Moss, “TV Shows China Ship Ramming”; Simpson, “Footage Released of Large Chinese Ship Chasing”; McKirdy, “Protestors Torch Factories.”

<sup>295</sup> O’Rourke, *Maritime Territorial and Exclusive Economic Zone*.

disputes and affect peace and stability.”<sup>296</sup> In violating the DOC, China undermined their basis for rejecting UN arbitration with the Philippines because they based their case on the DOC agreement.

Vietnamese media also reported that multiple PLAN ships including two Type 071 LPDs and one Type 053H3 frigate were part of the flotilla which accompanied HD-981, and this claim was bolstered by the Chinese state media reporting that a Fuchi-class replenishment ship was on patrol in the area near HD-981.<sup>297</sup> Interactions with Vietnamese fishing or coast guard vessels is usually handled by CMS or SSRFAB vessels, rather than conventional naval forces, and the integration of PLAN assets into the HD-981 mission is another example of risk acceptant behavior.

After displaying risk acceptant behavior, China was reluctant to disengage from their mission despite Vietnamese backlash. Within days of the deployment of HD-981, rare anti-Chinese protestors took to the streets of Hanoi, Danang, and Ho Chi Minh City, which culminated in the burning of properties believed to be owned by Chinese corporations in the Vietnam-Singapore Industrial Parks I & II in Binh Duong.<sup>298</sup> HD-981’s deployment also caused Vietnamese Deputy Prime Minister Pham Binh Minh to publically contact Chinese State Councilor Yang Jiechi on May 6, 2015 and demand that HD-981 and ships operating with violated Vietnam’s sovereignty and they should be removed from Vietnam’s territory.<sup>299</sup> Additionally, representatives from the Vietnamese foreign ministry met with representatives from the Chinese Embassy in Hanoi to deliver a ministerial diplomatic note that called for the “immediately withdraw the drilling rig, vessels, equipment and personnel from Lot 143 in Viet Nam’s continental shelf and prevent the recurrence of similar acts.”<sup>300</sup> Vietnamese protests reached the level that China was forced to charter a flight evacuating 290 Chinese nationals—including 100 injured—and send ships to evacuate another 7,000 in the following days. Tensions

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<sup>296</sup> Bower and Poling, “China-Vietnam Tensions High Over Drilling.”

<sup>297</sup> IHS Jane’s World Navies, “China.”

<sup>298</sup> McKirdy, “Protestors Torch Factories.”

<sup>299</sup> “Viet Nam Demands China Withdraw from Territorial Waters,” Vietnam Ministry of Foreign Affairs, May 7, 2014, <http://www.mofa.gov.vn/en/nr040807104143/nr111027144142/ns140508010729>.

<sup>300</sup> Ibid.

increased enough that Vietnam's mission to the UN submitted a position paper to the UN General Assembly demanding that China withdraw its oil rig from the area in the Paracel Islands on June 11, 2014. Tensions only decreased after Chinese State Councilor Yang Jiechi visited Vietnam to personally meet with Prime Minister Nguyen Tan Dung and Deputy Prime Minister Pham Binh Minh to discuss bilateral relations in June. At the regional level, the increased tensions caused the August 2014 ARF to publically issue a joint statement expressing concerns and calling for renewed efforts to sign the COC in the SCS. HD-981's withdraw from its operating area occurred on July 15, well after the crisis de-escalated and in advance of the Typhoon Rammasun which was on a path that would have encountered HD-981.<sup>301</sup>

China's reluctance to remove HD-981 and stop its risk acceptant strategy was made clear in the de-escalation of the crisis. While HD-981 was removed one month ahead of schedule, it was not removed in response to any bi-lateral negotiations or de-escalatory concession by China. Chinese State Councilor Yang Jiechi did travel to Vietnam to meet with Deputy Prime Minister and Foreign Minister Pham Binh Minh, Prime Minister Nguyen Tan Dung, and Communist Party chief Nguyen Phu Trong towards the end of the crisis in late June 2014.<sup>302</sup> Dung argued that Vietnam "cannot trade our sacred independence and sovereignty for some elusive peace or any type of dependence;" however, Yang responded by accusing Vietnam of "hyping up" the situation and said China would "take all necessary measures" to protect HD-981.<sup>303</sup> China was able to deescalate the crisis by exposing a rift in Vietnam's senior leadership and force an accommodating stance. Following Yang's departure, the Politburo met to formulate a response with two groups emerging favoring different responses to the crisis. Dung and Nguyen Sinh Hung, the Chairman of the National Assembly, led one group that included Ho Chi Minh City's Party Chief Le Thanh Hai, Deputy Prime Minister Nguyen Xuan Phuc, and the deputy chairmen of the National Assembly Nguyen Thi Kim

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<sup>301</sup> Thayer, "4 Reasons China Removed Oil Rig HYSY-981."

<sup>302</sup> Zachary Abuza, "Vietnam Buckles under Chinese Pressure," *Asia Times*, July 29, 2014, [http://www.atimes.com/atimes/Southeast\\_Asia/SEA-01-290714.html](http://www.atimes.com/atimes/Southeast_Asia/SEA-01-290714.html).

<sup>303</sup> Ibid.

Ngan and Thong Thi Phong.<sup>304</sup> The group presented a multi-faceted strategy that took a confrontational and hardline approach including: filing a brief with the International Arbitration Commission that paralleled the 2014 Philippine brief, pushing ASEAN towards a binding COC for the SCS, and increasing military and trade engagement with the US, India, Indonesia, Japan, and the Philippines by conducting multilateral military exercises and joining the Trans Pacific Partnership (TPP).<sup>305</sup> A de-escalation group formed that opposed these confrontational measures led by Trong and included a member of the Party's Secretariat To Huy Ru'a, Vietnam Communist Party (VCP) Secretariat Le Hong Anh, Chair Central Committee for Inspection Ngo Van Du, Propaganda and Education Commission Dinh The Huyen, Hanoi Party Chief Pham Quang Nghi, Chairman of Vietnam Fatherland Front Nguyen Thien Nhan, and the Minister for Public Security Tran Dai Quang.<sup>306</sup> The two leading politicians which sided with the de-escalation camp and dictated the outcome were President Truong Tan Sang and Minister of National Defense Phung Quang Thanh.<sup>307</sup> The Politburo's decision to de-escalate the crisis over HD-981 stopped the filing of a Vietnamese arbitration case at the UN, although Vietnam did request 'due regard' as the court reviewed the case brought by the Philippines. Additionally, Foreign Minister Minh canceled a scheduled trip to Washington, D.C., to meet with U.S. Secretary of State Kerry to discuss regional security issues.<sup>308</sup>

China's ability to force de-escalation was based on two major factors. First, the economic costs of confrontation was too high, as China remains Vietnam's largest trading partner accounting for over 50 billion dollar in bilateral trade in 2013.<sup>309</sup> Second, if China refused to back down, even a limited military conflict would be costly for Vietnam in terms of casualties and prestige. In his book on contemporary Vietnam *Shadows and Wind*, Robert Templer depicted the "overwhelming emphasis of official

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<sup>304</sup> Abuza, "Vietnam Buckles Under Chinese Pressure."

<sup>305</sup> Ibid.

<sup>306</sup> Ibid.

<sup>307</sup> Ibid.

<sup>308</sup> Ibid.

<sup>309</sup> Ibid.

Vietnamese history as resistance, almost always against China.”<sup>310</sup> Templer argues that the fear of Chinese domination has entrenched defensiveness in Vietnamese identity, and textbooks with stories of national heroes who fought China.<sup>311</sup> At this point, the potential cost of prestige from another battle lost over the Paracel Islands, does not appear to be worth the temporary infringement on sovereignty or potential hydrocarbon resources.

The case study illustrates the reluctance of China to de-escalate or stop risk acceptant strategies despite diminished returns. Vietnam and China reached an agreement to avoid future maritime disputes and support peace, but only after China identified and exploited a rift between the Vietnamese leadership, used its economic and military leverage to force de-escalation, avoided bi-lateral dispute resolution mechanisms from DOC, risked conflict with Vietnam, and undermined its own objection to Philippine arbitration. China’s behavior soured relations with Vietnam and caused it to submit an official statement to the UN Permanent Court of Arbitration that requested ‘due regard’ as the court reviewed the Philippine case against China’s nine-dashed line claims in the SCS.

## **F. NULL HYPOTHESIS**

Chinese leaders should maintain a static risk acceptance level in the SCS, despite changes to relative power, expectation levels, the length of time expectation levels are maintained, or the success/failure of on-going strategies.

The evidence presented for applied hypotheses one through four is useful for rejecting the null hypothesis and proving that Chinese leaders’ risk acceptance has varied over time. Applied hypothesis one argued that the lead up to the 2009 deadline for submissions to the UNCLOS CLCS threatened to decrease the relative status of China in the SCS, and the perceived systemic pressures caused Chinese leaders to choose a favorable reference point illustrated by the nine-dashed line map. Applied hypothesis two argued that Chinese leaders have anchored on a reference point of their nine-dashed line

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<sup>310</sup> Robert D. Kaplan, “The Vietnam Solution,” *The Atlantic*, June 2012, <http://www.theatlantic.com/magazine/archive/2012/06/the-vietnam-solution/308969/>.

<sup>311</sup> Ibid.

claim and rejected any renormalization that relinquishes territory in the SCS. This is shown most clearly by the delaying strategy surrounding the COC. Applied hypothesis three showed that observed fishing and hydrocarbon related incidents observed prior to the 2006 lead up to UNCLOS CLCS were less risk acceptant, and that after 2006 China was willing to pursue a risk acceptant strategy. Finally, applied hypothesis four, regarding the deployment of HD-981, provides a case study illustrating that China was willing to act in a risk acceptant manner during a crisis in the SCS, and it would not disengage from its strategy despite the crisis that developed with Vietnam.

The evidence presented in support of the arguments of this thesis illustrated that China displayed a distinct shift in its risk acceptance in 2006 leading up to the 2009 UNCLOS CLCS deadline, and thus the null hypothesis can be rejected.



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## **VI. CONCLUSION**

### **A. INTRODUCTION**

This thesis attempted to answer the questions: does Chinese behavior follow the balance-of-risk hypotheses? If so, what are the implications of balance-of-risk theory for our understanding of Chinese actions in the SCS? And, what does the balance-of-risk tell us about policy response during crisis? In order to answer these questions, balance-of-risk theory was presented and applied to recent Chinese behavior in the SCS. Balance-of-risk theory posits that leaders make decisions based on a reference point framed by their perceived relative power and international standing, that leaders indicate their reference point through public documents and statements, and that leaders will make risk averse policy decisions when they are in the domain of gains and risk acceptant policy decisions when they face potential losses to their perceived reference point. By proving Chinese behavior in the SCS conforms to the theses from the balance-of-risk theory, U.S., Southeast Asian, and East Asian policy makers are offered a perspective that could help understand and explain Chinese behavior.

### **B. CONCLUSIONS FROM THE APPLIED THESES**

The four applied hypothesis argued that China does follow the behavior predicted by the balance-of-risk theory. Applied hypothesis one identified perceived systemic pressures from the lead up to the 2009 deadline for submissions to the UNCLOS CLCS caused Chinese leaders to choose a favorable reference point illustrated by the nine-dashed line map. Applied hypothesis two found that Chinese leaders have anchored on a reference point of the nine-dashed line claim and rejected renormalization through arbitration or even a COC for the SCS because they could cause the relinquishment of claimed territory. Applied hypothesis three observed a change trend of fishing and hydrocarbon related incidents. Prior to the 2006 lead up to UNCLOS CLCS China appeared less risk acceptant, but after 2006 China appeared willing to pursue a risk acceptant strategy when dealing with fishing or hydrocarbon incidents. Finally, applied hypothesis four analyzed a case study of the deployment of HD-981 and the Chinese

response that demonstrated a reluctance to disengage from its risk acceptant strategy despite the crisis that developed with Vietnam.

The balance-of-risk theory could be further confirmed if the following actions were to occur: the formalization of the SCS as a Chinese core interest on the same level as Taiwan, Tibet, or Xinjiang, the continued increase in the use of military assets when asserting sovereignty, responding to fishing or hydrocarbon incidents, and small scale conflicts with military assets of other disputants, or the forceful taking of a disputed island. At this point, the anchored Chinese reference point appears to include the entirety of the islands, reefs, and waters covered by the nine-dashed line, and this thesis argues that any increase in internationally forced systemic pressures surrounding the sovereignty of the areas within the nine-dashed line would further threaten the Chinese position placing China into a domain of losses. Within this framework, balance-of-risk theory is a useful tool for evaluating future risk acceptant behavior. Future research could compare the behavior of the other disputant states,

### **C. FUTURE EXPECTATIONS OF CHINESE BEHAVIOR**

The conclusions developed by examining Chinese behavior against the balance-of-risk theory provide a new mechanism that leaders could use to approach diplomacy in the SCS. With regard to the question if China can rise peacefully, balance-of-risk theory suggests that the settlement of the SCS disputes would cause risk acceptant behavior that would likely lead to conflict if China is placed in the domain of losses as a result of the arbitration. China's risk acceptant behavior after 2006 is a good example of assertiveness, and it indicates that China can be viewed as revisionist in the SCS. China's unwillingness to settle disputes with the international community through mature institutions, such as the Permanent Court of Arbitration at the UN or the ARF's DOC, and its desire to rely solely on bi-lateral negotiations is an indication that China wishes to reform at least some of the institutions of the current international system. These conclusions reject the arguments from the economic interdependency theories, but the broadly support the English School and neorealist arguments. China's assertive and revisionist behavior could be viewed as indications of a desire to achieve regional hegemony. Alternatively,

they could be viewed as frustrations from the two-way process as China and other world powers work out accommodations that make room for China's new status. Within both of these overarching theories, the balance-of-risk thesis can be used as a predictor of behavior until China's place in the international system is solidified.

#### **D. POLICY RECOMMENDATIONS BASED ON THE BALANCE-OF-RISK THESIS**

While discussing China's approach to the Sino-Japanese disputed Senkaku Islands leading up to the 1978 peace treaty, Deng described China's delaying strategy: "It doesn't matter if this question is shelved for some time, say ten years. Our generation is not wise enough to find common language on this question. Our next generation will certainly be wiser. They will certainly find a solution acceptable to all."<sup>312</sup> Xi's decision to modify Deng's '20-character policy' in favor of a more activist role in foreign affairs has complicated the SCS disputes, and it appears as though Xi's generation is attempting to find the common language that leads to resolution. This final section will address U.S. policy and the implications from the balance-of-risk theory applied to the change in Chinese foreign policy.

The Washington-based Federally Funded Research and Development Center (FFRDC) Center for Naval Analysis summarized the U.S. policy on the SCS, with a basis in Congressional testimony and public statements from serving U.S. senior officials, as:

No use of force or coercion by any of the claimants to resolve sovereignty disputes or change the status-quo of disputed South China Sea features.

Freedom of navigation, which includes unimpeded lawful navigation for commercial, private and military vessels and aircraft. Coastal states must respect the UNCLOS language that all "high seas freedoms" are applicable to military operations in the EEZs of coastal states.

All maritime entitlements to any of the waters of the South China Sea must be based on international law and must be derived from land features in the South China Sea. China's nine-dash line does not meet these criteria. In short, only land (islands and rocks) generate maritime zones, not vice versa.

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<sup>312</sup> Fravel, *Strong Borders, Secure Nation*, 271.

The United States takes no position on the relative merits of competing sovereignty claims. It does not choose sides; nor does it favor one country's claim over another's.

An effective Code of Conduct that would promote a rules-based framework for managing and regulating the behavior of relevant countries in the South China Sea is essential. A key part of such a document would be mechanisms such as hotlines and emergency procedures for preventing incidents in sensitive areas and managing them when they do occur in ways that prevent disputes from escalating.

The United States supports internationally recognized dispute resolution mechanisms, including those provided for in the UNCLOS treaty.

Washington will respond positively to small South China Sea littoral countries that are U.S. allies, officially designated "strategic partners," or "comprehensive partners," who want to improve their ability to patrol and monitor their own territorial waters and EEZs.

The U.S. government wants to improve access for U.S. military in areas proximate to the South China Sea.<sup>313</sup>

These policies are a reflection of some longstanding U.S. positions and the continue of the strategic pivot to Asia, which Secretary of State John Kerry recently reiterated is "a top priority for every one of us in [Obama's] administration."<sup>314</sup> Analyzing these policies against the findings of the balance-of-risk theory leads to a few interesting observations. First, not taking a position in the sovereignty claims eases the Chinese perceived threat to its positions, but at the same time not recognizing the nine-dashed line and supporting arbitration increases the perceived challenge. Second, supporting SCS littoral countries who are strategic partners or comprehensive partners in their patrols of their claimed territorial waters and EEZs places the U.S. into a position where it could be involved in a Chinese risk acceptant display of sovereignty. The USNS *Impeccable*, USNS *Bowditch*, EP-3, and more recent USS *Cowpens* incidents are examples that show that China is willing to display sovereignty despite U.S. presence. Finally, advocating for UNCLOS and its dispute resolution mechanisms is flawed in two

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<sup>313</sup> McDevitt, "South China Sea," v-vi.

<sup>314</sup> Gopal Ratnam and Kate Brannen, "Against Other Threats, Obama's Security Budget Sticks to Asia-Pacific Pivot," *Foreign Policy*, February 2, 2015, <http://foreignpolicy.com/2015/02/02/793982budget-asia-pacific-syria-iraq-russia-ukraine/>.

parts: the U.S. has not ratified UNCLOS, and China does not recognize the dispute resolution mechanisms. Any attempt to support partners in their attempts at using international institutions to force arbitration will result in more risk acceptant Chinese behavior.

If the U.S. desired a policy that would reduce the current tensions and risk acceptant Chinese behavior, the balance-of-risk theory provides some suggestions. The first option would be to retain the status quo, and to not force arbitration or any other position that threatens the Chinese position. The second option would be to support the renouncing of claims in return for some form of equitable concessions; examples could include financial settlements or economic preferences in terms of trade or loans. Other areas of potential traction for resolving disputes could be focused on non-security related cooperation. Strategies that focus on institutional inclusion, especially in the economic sector, could increase the costs of conflict with China and any of the disputant states. Raising the cost of even limited conflict by providing cooperative institutional benefits, one example would be to maintaining the original “*res nullius*” classification and create a cooperative zone of resource extraction by all of the disputants, could provide a mechanism that preserves the status quo.

In closing, SCS disputes are complicated by a long history of conflicting claims, militarized disputes, and financial benefits from natural resources, and leaders have used nationalism, historic ties, and international institutions to bolster their positions in a zero sum sovereignty game. International relations theorists have yet to form a consensus, and they provide numerous positions and policy recommendations. This thesis analyzed Chinese behavior against the balance-of-risk theory, and argued that it provides a mechanism to understand and predict future Chinese actions.

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